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## United States Senate

COMMITTEE ON  
 HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

December 19, 2006

The Honorable Stephen Johnson  
 Administrator  
 Environmental Protection Agency  
 1200 Pennsylvania Avenue, N.W.  
 Washington, DC 20460

Dear Administrator Johnson:

We are writing to inquire as to the status of the Environmental Protection Agency's (EPA) efforts to preserve records and materials as the Agency restructures its libraries. While we recognize and appreciate the importance of digitizing Agency documents and making these documents available online to the public, we are concerned about reports that important information may have been discarded from EPA libraries.

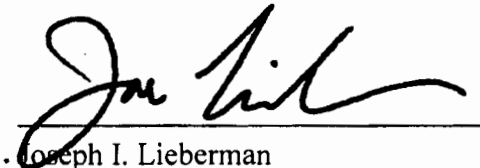
Over the last 36 years, the Environmental Protection Agency (EPA) has accumulated a vast trove of public health and environmental information, including at least 504,000 books and reports, 3,500 journal titles, 25,000 maps, and 3,600,000 information objects on microfilm. EPA's libraries also had information experts who helped EPA staff and the public to access and use Agency information and information in other libraries outside of the Agency.

Please describe the status of the EPA library holdings, including materials that the EPA may have already disposed of, since announcing the closure of Agency libraries. If library materials have been disposed of, please explain the rationale for doing so. We also request that you ensure records are compiled and maintained that describe the location and content of all library material, including items that have been dispersed, to preserve Agency staff and the public's access to this information. Finally, we request that EPA not further dispose of public health and environmental information currently or formerly held in any EPA library without seeking further input regarding how this material could best serve Agency staff and the public.

Sincerely,



Susan M. Collins  
 Chairman



Joseph I. Lieberman  
 Ranking Member



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 12 2007

OFFICE OF  
ENVIRONMENTAL INFORMATION

The Honorable Susan Collins  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

Thank you for your letter of December 19, 2006, to Administrator Johnson regarding the Environmental Protection Agency (EPA) library system. The goal of this modernization effort is to provide better access to information to a broader audience by making more information available online and through electronic delivery of library services.

EPA is modernizing its library system to take advantage of the electronic age. The *EPA FY 2007 LIBRARY PLAN: National Framework for Headquarters and Regional Libraries*<sup>1</sup> describes the new model that EPA is implementing to ensure that EPA employees receive high quality efficient library services and the public has enhanced access to EPA information. This report was developed by a steering committee comprised of senior EPA officials and built upon earlier studies done by EPA. The Framework contains criteria, developed in accordance with American Library Association recommendations, to provide for an evaluation of each EPA library collection both to identify and preserve unique EPA documents and to ensure that non-EPA documents needed to support Agency research and not held elsewhere in the library network are preserved.

We have learned that EPA can gain efficiencies and improve services by having its regional libraries work more as a cohesive network with shared functions. The trend in recent years has shown a shift in the way people request and receive information. With more materials available online, EPA has found that its employees and the public are requesting more information electronically. In addition to improved electronic access, the EPA library system continues to maintain a very strong network of physical libraries to provide another avenue for EPA staff and the public to access EPA materials. This includes staff in locations where walk-in access has been affected, as arrangements have been made for service via established libraries within the EPA library network. For the 5 locations where public walk-in service has been discontinued, EPA has already made documents available electronically or by interlibrary loan from one of EPA's other 21 libraries. In addition, the public can continue to request interlibrary loans via any of the over 40,000 libraries in the U.S. and abroad that participate in the Online Computer Library Center, of which EPA is a member. Overall access to library services and information will

<sup>1</sup> The 2007 National Framework can be accessed at  
[http://www.epa.gov/natlbra/Library\\_Plan\\_National\\_Framework081506final.pdf](http://www.epa.gov/natlbra/Library_Plan_National_Framework081506final.pdf)  
Internet Address (URL) • <http://www.epa.gov>

be enhanced, not limited, with employees and the public receiving these services through more efficient means.

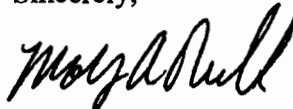
I would like to provide you with an update on the modernization process and further outreach that EPA is conducting to ensure that this process continues to take place in an open and collaborative environment. As you may know, on December 8, 2006, my staff provided Congressional staff a tour of EPA's Headquarters libraries and responded to their questions about the Framework and its implementation. EPA would like to offer an additional session on January 24 from 2:00 to 4:00 p.m. for any interested Congressional staff. Further, EPA staff has been directed to make no changes in public access for 90 days, and to reschedule recycling of materials until after this period. We believe that this will provide additional time for us to conduct briefings or tours requested by Members of Congress and to address any remaining questions that Members may have. I have also instructed EPA management to keep a complete inventory of all materials that they plan to recycle. Let me reassure you that to date we have not recycled or disposed of any unique EPA library materials. All unique EPA documents are being digitized, and at least one hard copy of each document will be maintained in the EPA Library Network. In addition, my staff is having discussions with each EPA Assistant Regional Administrator to ensure they understand and follow these directions and the guidance provided in the Framework.

My staff has also met with representatives of the American Library Association (ALA), the Special Libraries Association (SLA), and the American Association of Law Libraries to further seek input on EPA's library modernization plans. In a recent follow-up meeting with ALA, we discussed how we can work together on an outreach plan to assure that we get input from professionals, the public, and States on EPA's plans. As a key step in this outreach, EPA has accepted ALA's invitation to speak at ALA's midwinter meeting in Seattle later this month.

As you know, some members of the House of Representatives requested that the Government Accountability Office (GAO) initiate an investigation of EPA's plan to implement a new framework for the Library Network. My staff has met with the GAO staff reviewing the implementation of the Library Network Plan and has already shared key documents. I assure you that my staff is cooperating fully with GAO.

Again, thank you for your letter. If you or your staff would like to attend the January 24<sup>th</sup> tour or if you have further questions, please contact me or your staff may call James Gentry, in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0336.

Sincerely,



Molly A. O'Neill  
Assistant Administrator  
and Chief Information Officer

**United States Senate**

WASHINGTON, DC 20510

February 22, 2008

The Honorable Stephen L. Johnson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Johnson:

The federal government is responsible for maintaining and protecting sensitive Personally Identifiable Information (PII) that Americans are required to provide for a wide array of reasons, including paying taxes, receiving medical and disability benefits, and obtaining retirement compensation. This PII includes names, addresses, Social Security numbers, biometric records, and other data that is linked or linkable to an individual. Identity theft and fraud are national problems that have affected more than 10 million Americans so it is critical the federal government take steps to ensure PII does not fall into the wrong hands.

The Office of Management and Budget (OMB) is responsible for establishing government-wide policies and for providing guidance to agencies on how to implement the provisions of the Federal Information Security Management Act of 2002 (FISMA), the Privacy Act, and other federal information security and privacy laws. Since February 2005, OMB has issued the following Memoranda related to the protection of PII:

<u>Date:</u>	<u>Report</u>	<u>Title</u>
1. 02/11/2005	M-05-08	Designation of Senior Agency Officials for Privacy
2. 05/22/2006	M-06-15	Safeguarding Personally Identifiable Information
3. 06/23/2006	M-06-16	Protection of Sensitive Agency Information
4. 07/12/2006	M-06-19	Reporting Incidents Involving Personally Identifiable Information and Incorporating the Cost for Security in Agency Information Technology Investments
5. 07/17/2006	M-06-20	FY2006 Reporting Instructions for the Federal Information Security Management Act and Agency Privacy Management
6. 05/22/2007	M-07-16	Safeguarding Against and Responding to the Breach of Personally Identifiable Information

Following the May 2006 Department of Veterans Affairs data breach, the GAO conducted an analysis of the 24 major federal agencies' progress in developing policies and documented procedures that respond to guidance from OMB to protect PII that is either accessed remotely or physically transported outside an agency's secured physical perimeter. The GAO focused in particular on agency compliance with Memorandum M-06-16: Protection of Sensitive Agency Information.

This Memorandum directs agencies to: (A) encrypt all data on mobile computers/devices that carry agency data; (B) allow remote access only with two-factor authentication, where one factor is provided by a device separate from the computer gaining access; (C) use a "time-out" function for remote access and mobile devices requiring user re-authentication after 30 minutes of inactivity; (D) log all computer-readable data extracts from databases holding sensitive information and verify that each extract including sensitive data has been erased within 90 days; and (E) use a NIST security checklist, included in the memo, that provides specific actions to be taken by agencies to protect PII that is either accessed remotely or physically transported outside an agency's secured physical perimeter.

We are writing you today because the GAO indicated the Environmental Protection Agency does not have policies in place to address recommendation E listed above. Accordingly, we ask that you provide in writing a timeline for when you expect to have policies in place to address the recommendations of OMB Memorandum M-06-16. Additionally, we ask that you provide in writing the status of your compliance and/or a timeline for compliance with the recommendations in OMB Memoranda M-05-08, M-06-15, M-06-19, M-06-20, and M-07-16.

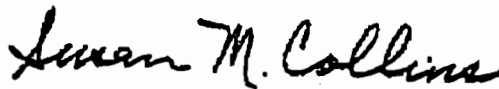
According to the GAO, the security breaches at agencies throughout the federal government highlight the importance of effective information security controls to protect personally identifiable information. Loss of such information may lead to identity theft or other fraudulent use of the information, resulting in substantial harm, embarrassment, and inconvenience to individuals. As the federal government obtains and processes information about individuals in increasingly diverse ways, it is critically important that it ensure the privacy rights of individuals are respected and that personal information is properly secured and protected.

Thank you for your time, and we look forward to your prompt response.

Sincerely,



Norm Coleman  
Ranking Member  
Permanent Subcommittee on Investigations  
Senate Committee on Homeland  
Security and Governmental Affairs



Susan Collins  
Ranking Member  
Senate Committee on Homeland  
Security and Governmental Affairs



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 7 2008

The Honorable Susan Collins  
Ranking Member  
Senate Committee on Homeland  
Security and Governmental Affairs  
United States Senate  
Washington, D.C. 20510

OFFICE OF  
ENVIRONMENTAL INFORMATION

Dear Senator Collins:

In response to your February 22, 2008, inquiry about the U.S. Environmental Protection Agency's (EPA) actions to protect sensitive Personally Identifiable Information (PII), I am pleased to report that the Agency is making significant progress implementing the protections required under the Federal Information Security Management Act (FISMA) and in the Office of Management and Budget (OMB) memoranda cited in your letter. EPA takes its responsibility for maintaining and protecting sensitive PII very seriously. The American public expects EPA to handle all information with proper protections and safeguards commensurate with the risks of harm or potential injury to the individual(s). As the Government Accountability Office (GAO) noted, the Agency has remaining actions to complete.

To complete all required actions, EPA developed a multi-pronged, multi-year, approach to strengthening administrative, managerial, technical and operational safeguards pertaining to privacy and security. Our approach includes fully reviewing the currency of Agency policies and procedures with concurrent efforts to implement critical controls for more securely handling sensitive PII.

The Agency recently updated its privacy and security policies to incorporate directives emanating from OMB and Congress. Specific progress to date includes the following actions:

1. Completion and issuance of the Agency's Privacy Policy September 2007. This policy addresses the requirements cited in OMB M-05-08 to designate senior Agency officials for Privacy as well as M-06-15's requirements for those officials to provide the Agency with a comprehensive Privacy Policy;
2. Completion of the majority of the Agency's mobile computers and the revision and issuance of the Agency Network Security Policy in November 2007 in accordance with M-06-16;

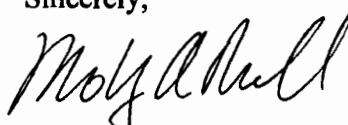
3. Completion and issuance of the updated Agency incident handling procedures citing the one-hour notification requirement for all incidents involving PII in accordance with M-06-19;
4. Completion and issuance of the Agency's FY 2006 FISMA report in accordance with M-06-20; and
5. Completion of the Agency's review of current holding of PII, the review of current collection and use of social security numbers, and the development of the Agency breach notification policy and plan in accordance with M-07-16.

The Agency continues to work towards improving its security posture and adhering to the remaining requirements of FISMA and OMB. A detailed Gantt chart is enclosed outlining the major milestones and timelines for the Agency's multi-year effort to include:

1. Updating the Agency's Information Security Policy and Information Security Procedure Handbook to address the National Institute of Standards and Technology's Special Publication 800-53 revision #2 security controls;
2. Distributing a public schedule of the Agency review of holding of PII;
3. Implementing PII responsibilities in each employee's performance plan;
4. Completing encryption of all mobile devices and lab laptops;
5. Piloting data extract solutions to support Agency policy; and
6. Consolidating Agency remote access solutions into our two-factor authentication remote access solutions to facilitate the enterprise implementation of a 3- minute "time-out" capability.

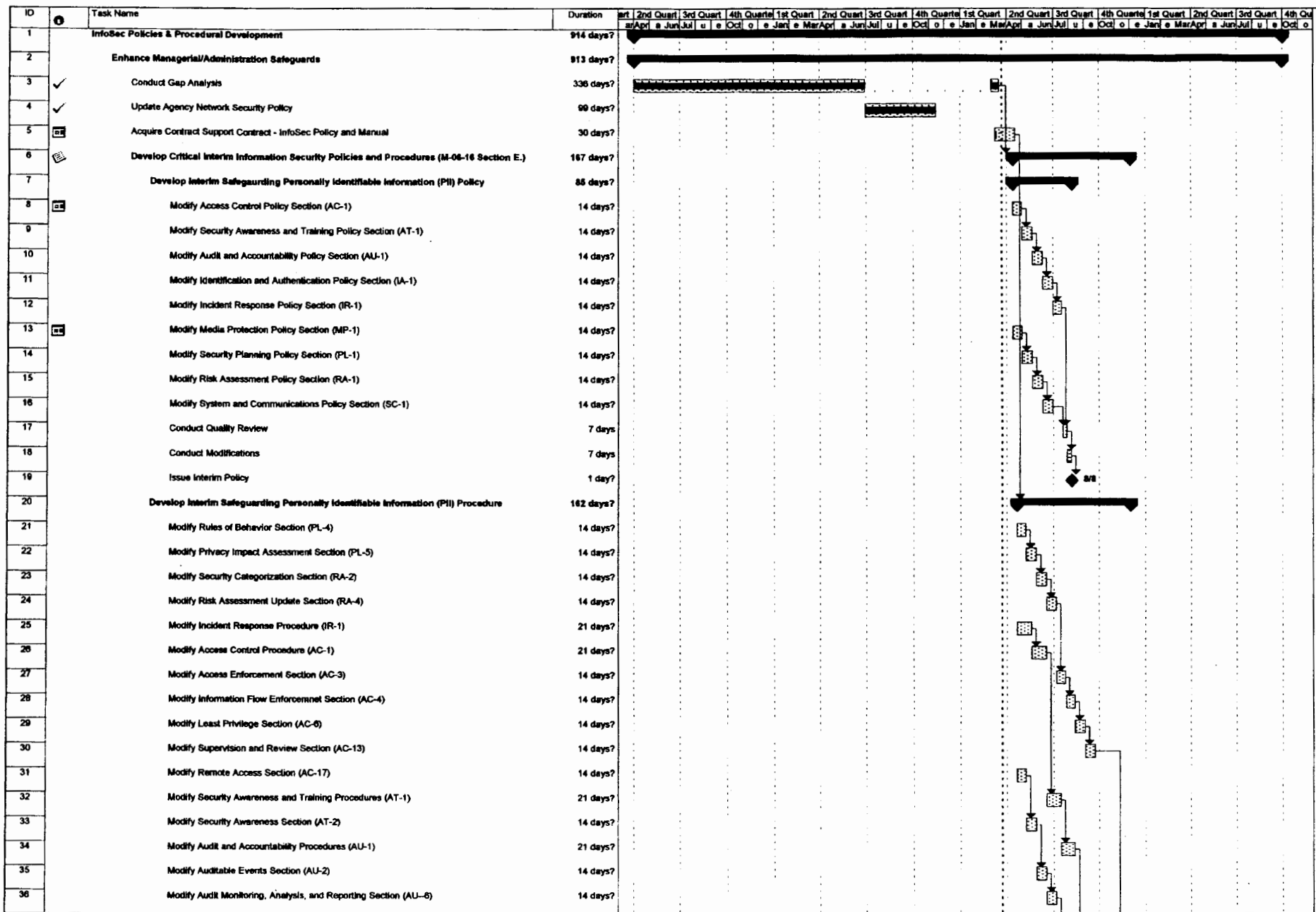
Please contact me if you have further questions, or your staff may contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-6969.

Sincerely,



Molly A. O'Neill  
Assistant Administrator  
and Chief Information Officer

Enclosure



Project: Governance Grant 031808 v2 jd  
Date: Fri 3/21/08

Task  
Split

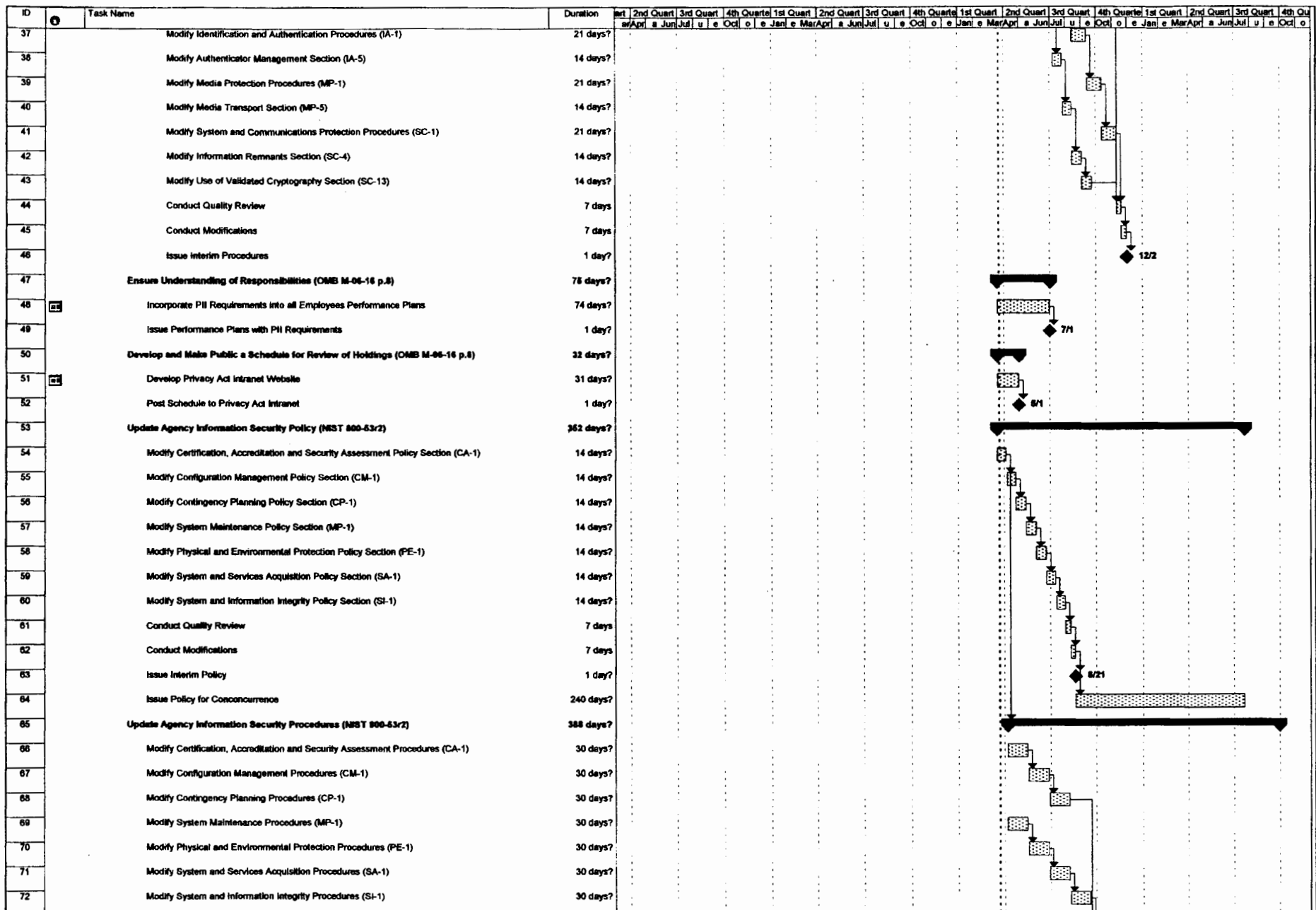
Progress  
Milestone

Summary  
Project Summary

External Tasks  
External Milestone

Deadline





Project: Governance Gantt 031808 v2.jxl  
Date: Fri 3/21/08

Task

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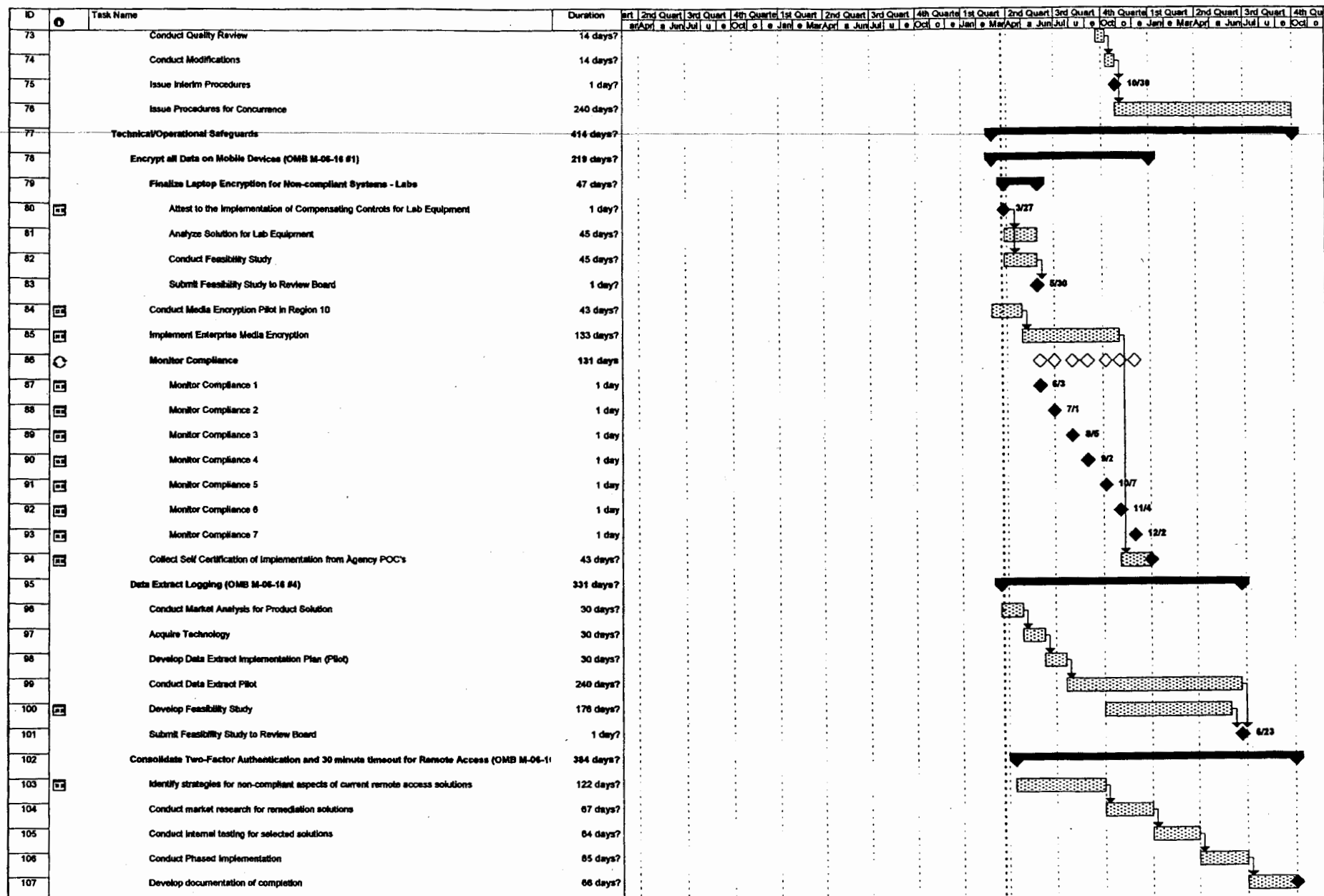
Summary

Project Summary

External Tasks

External Milestone

Deadline



Project: Governance Genit 031808 v2.jd  
Date: Fri 3/21/08

Task  
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Progress  
Milestone

Summary  
Project Summary

External Tasks  
External Milestone

Deadline

# United States Senate

WASHINGTON, DC 20510

December 4, 2007

President George W. Bush  
The White House  
Washington, D.C. 20500

Dear Mr. President:

We write to urge your Administration to carefully evaluate and respond to unintended public health and safety risks that could result from the increased use of ethanol as a "general purpose" transportation fuel. You have called for a national effort to reduce consumers' demand for gasoline by 20 percent in ten years, in part through increased use of renewable transportation fuels such as ethanol. In addition, the Senate, as part of its pending energy legislation, has adopted language that would significantly increase renewable fuel use – particularly the use of ethanol – over the next two decades.

Currently, under federal law, the maximum level of ethanol permitted to be blended with gasoline for use in conventional gasoline-powered vehicles, equipment and engines is 10 percent – so-called E10. There is an interest in increasing ethanol blends to 15 percent (E15), 20 percent (E20), or even 30 percent through an expedited process at the Environmental Protection Agency (EPA) pursuant to a fuels waiver under Section 211(f)(4) of the Clean Air Act. Currently, there is little available data on the emission, air quality, public health, or safety impacts of mid-level ethanol. Therefore, to avoid unintended harm to air quality, to consumers and to gasoline-powered vehicles and equipment, the following concerns must be addressed before EPA takes such a step:

- On-road and non-road engines, vehicles, and equipment (other than flexible fuel motor vehicles) are not designed to be operated on ethanol blends higher than E10. The available evidence indicates that lawn mowers, chain saws, snowmobiles, recreational boats, motorcycles, and non-flex fuel motor vehicles will produce higher evaporative and engine exhaust emissions if ethanol blends higher than E10 are used.
- Ethanol blends higher than E10 are more corrosive on certain metals and plastics used in many of these products and will cause many gasoline-powered engines to run hotter and at higher RPM levels. In turn, this will result in adverse impacts on starting, durability, operation, performance, and operator safety, due to the degradation of critical components and safety devices.


To ensure there will not be damage to air quality or to consumers or their gasoline-powered products, there must be a comprehensive and scientific analysis of the impacts of ethanol blends higher than E10 in all gasoline-powered on-road and non-road engines, equipment, and vehicles. As part of any Section 211(f)(4) waiver decision for ethanol blends higher than E10, the EPA analytical process must, at a minimum, include the following:

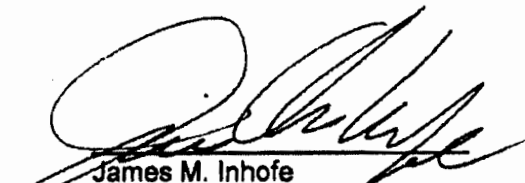
- Testing of a representative and diverse mix of all gasoline-powered engines, vehicles, and equipment – on-road and non-road, large and small -- in which these higher ethanol blends will be used to assess potential increased emissions and long-term durability;
- Coordination of the analytical process by EPA with representatives of all stakeholders in this process, including at a minimum renewable fuel producers and marketers, on-road and non-road vehicle, equipment, and engine manufacturers, and public safety and environmental protection advocates;
- An analysis of the ability of the current wholesale and retail motor fuel distribution system to accommodate different levels of ethanol blends if blends higher than E10 are not suitable for use in all on-road and non-road gasoline-powered engines;
- Public notice and comment of all proposed EPA actions to consider or approve ethanol blends higher than E10, including, if necessary, public hearings; and,
- Final action by EPA to either approve or deny a petition to introduce into commerce ethanol blends higher than E10, along with publication of the agency's rationale for its decision.

We request information on all EPA's and the Department of Energy's (DOE) proposed or existing test programs and evaluations of the impacts of operating gasoline-powered on-road and non-road vehicles, engines, and equipment with ethanol blends higher than E10. Before these test programs and evaluations are implemented, EPA and DOE must provide a meaningful opportunity for comment and input from all stakeholders.

We look forward to working with you on these important issues. Thank you for your consideration of this request.


Sincerely,

  
Jack Reed

  
James M. Inhofe

  
Benjamin L. Cardin

  
Bernard Sanders

  
Susan M. Collins

cc: Administrator Johnson  
Secretary Bodman



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 23 2008

OFFICE OF  
AIR AND RADIATION

The Honorable Susan M. Collins  
United States Senate  
SR-172 Russell Senate Office building  
Washington, D.C. 20510

Dear Senator Collins:

Thank you for your letter of December 4, 2007, to President George W. Bush in which you and four of your Senate colleagues expressed concern over the potential use of ethanol-gasoline blends containing greater than 10 percent ethanol. In your letter, you laid out steps for the U.S. Environmental Protection Agency (EPA) to take with respect to fuel-waiver testing and any application submitted to EPA under Clean Air Act Section 211(f)(4). These steps you suggested include an analysis of the ability of the current wholesale and retail motor-fuel distribution system to accommodate different levels of ethanol blends and final action to either approve or deny a waiver application. You also requested information from EPA and the Department of Energy on all proposed or existing test programs and evaluations of the impacts of operating gasoline-powered highway and nonroad vehicles, engines, and equipment with ethanol blends greater than E10.

Ethanol will play a critical role in achieving the president's goal for a 20 percent reduction in gasoline demand by 2017. Currently conventional gasoline-powered vehicles and engines in the United States may use no more than 10 percent ethanol (E10). However, there is growing interest in using greater ethanol blends in conventional vehicles and engines to achieve the president's goal and expand the market for domestically-produced ethanol.

The waiver criteria set forth in CAA Section 211(f)(4) permit EPA's Administrator to waive prohibition of a fuel or fuel additive only if the Administrator "determines that the applicant has established that such fuel or fuel additive... will not cause or contribute to a failure of any emission control device... over the useful life of any vehicle..." Under the Energy Independence and Security Act of 2007, EPA must grant or deny a waiver application within 270 days. The CAA waiver criteria do not take into consideration market acceptance of a waiver fuel or fuel additive.

EPA takes its role in reviewing any fuel waiver application seriously and appreciates the concerns raised in your letter about evaporative and exhaust emissions and materials compatibility. At the present time, EPA is not undertaking its own testing on intermediate ethanol blends greater than E10. However, we are actively involved in efforts underway by

governmental and private organizations to study the effects of intermediate ethanol-gasoline blends on non-flex-fuel vehicles and small engines; these studies might be used to support a waiver application in the future.

For example, we are in close touch with officials from the state of Minnesota who have expressed interest in obtaining an EPA waiver for E20 (gasoline mixed with 20 percent ethanol) to fulfill their 2005 state mandate to require that gasoline contain 20 percent ethanol. Over the past two years, we have had a series of meetings to review and discuss the Clean Air Act testing and data requirements to legalize E20 for use in non-flex-fuel vehicles and engines, which include both emissions and health-effects testing. We currently await the results of the state's pilot testing on light-duty vehicles, which we have promised to review to help determine what additional testing will be needed to support a waiver request.

EPA has also provided technical guidance to the Energy Department as it has worked to develop a testing program that will help to answer questions about the compatibility of higher concentrations of ethanol in gasoline on materials used in fuel systems and emission-control devices, as well as effects on emissions and drivability/performance of vehicles and engines.

EPA has sought and will continue to seek input, data, and technical analysis from a variety of stakeholders including ethanol producers, automakers, and small-engine manufacturers. These stakeholders will be involved in determining and developing appropriate data to help address questions related to the use of intermediate ethanol-gasoline blends in non-flex-fuel vehicles and engines. A testing program that provides the type of data necessary to support making a determination on the impacts of the use of intermediate ethanol-gasoline blends -- and subsequently, any waiver application -- will take several years to complete.

As we collect more information, we will carefully evaluate all of the data to determine if the requirements of the Clean Air Act can be met to grant the waiver. If and when EPA receives a waiver application, we will open a docket and request public comment as part of the process prescribed by Section 211(f)(4).

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Diann Frantz, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-3668.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Meyers", written in a cursive style.

Robert J. Meyers  
Principal Deputy Assistant Administrator

AL-08-000-6005

# United States Senate

WASHINGTON, DC 20510

May 2, 2008

The Honorable Stephen Johnson  
Administrator  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator Johnson:

We are writing to convey the frustrations of consumers and animal agriculture producers about the consequences of food-to-fuel mandates that the U.S. Environmental Protection Agency (EPA) is currently implementing and to inquire about the pending rule-making process for the Energy Independence and Security Act of 2007 (EISA).

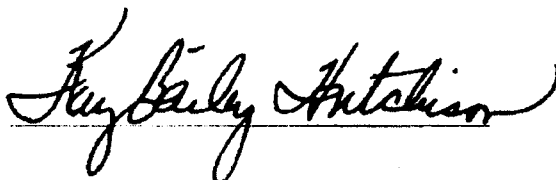
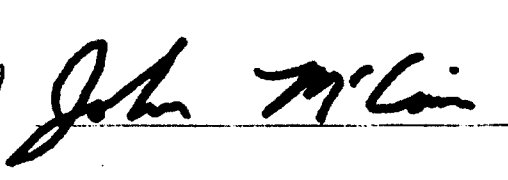
EISA essentially requires fuel marketers to blend 15 billion gallons of corn ethanol and directs 1 billion gallons of bio-diesel into the nation's fuel supplies by 2015. To meet this requirement, a substantial volume of our corn crop and our vegetable oils will have to be diverted into our fuel supplies, severely impacting food and feed prices. Congress gave the EPA authority to waive all or portions of these mandates, as well as rule-making authority to structure the mandates for the benefit of all Americans. We believe the EPA should begin the process of examining alternatives to ease the severe economic and emerging environmental consequences that are developing in America as a result of the mandate.

We are very concerned that food-to-fuel mandates and subsidies have contributed to higher domestic and global food prices. According to the USDA, 25 percent of America's corn crop was diverted to produce ethanol in 2007, and 30 to 35 percent of our corn will be diverted in 2008. This problem will only be compounded as we move towards 2015 with ever increasing mandates. Further, farmers could supplant other grains with corn, thereby decreasing supply and increasing prices of numerous agriculture products. Although many factors may contribute to high food costs, food-to-fuel mandates are the only factors that can be reconsidered in light of changing circumstances.

American families are feeling the financial strain of these food-to-fuel mandates in the grocery aisle and are growing concerned about the emerging environmental concerns of growing corn-based ethanol. It is essential for the EPA to respond quickly to the consequences of these mandates. Congress made the mandates in the EISA different from existing mandates to provide flexibility and to encourage innovation in advanced and cellulosic fuels. We believe today's circumstances merit the use of this flexibility.

The Bureau of Labor Statistics reports that food inflation is rising by 4.9 percent and other studies predict that food inflation could increase by 7 to 8 percent in the next few years. We are concerned that inflationary pressure on food will only escalate in the coming months and could be further complicated by severe weather. We urge you to take the foregoing into consideration as part of your current rule-making process and ask that you provide us with a status report at your earliest convenience.

Sincerely,

Tom

Almy

Mike Enzi

Jim DeMint

Lee Neubauer

John E. Sumner

John Ensign

Don

Boucher

Dirk Vitter

John Cornyn

Led Stevens

John G. Hatch

John Barrasso

Boyd Wicker

Jim McClintock

Bob F. Bennett

Mike Crapo

Susan M. Collins

Wayne Allard

Elizabeth Dole

Richard Shelby





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUN - 4 2008

OFFICE OF  
AIR AND RADIATION

The Honorable Susan M. Collins  
United States Senate  
Washington, D.C. 20510

Dear Senator Collins:

Thank you for your May 2, 2008, letter to Stephen L. Johnson, Administrator of the U.S. Environmental Protection Agency (EPA), co-signed by 23 of your colleagues, with whom you concur, expressing concerns about food-to-fuel mandates and their effect upon consumers and animal agriculture producers. You and your colleagues also requested information about EPA's pending rulemaking process regarding renewable fuels as required by the Energy Independence and Security Act of 2007 (EISA), and requested a status report on a request we received to waive a portion of the renewable fuel standard (RFS).

At this time, EPA's Office of Transportation and Air Quality, under the Office of Air and Radiation, is considering new and revised RFS requirements as required by EISA. We are working expeditiously to meet the statutory deadline in EISA for 2009 RFS requirements. Separately, EPA is also considering a waiver request related to the current RFS, which was received from the Governor of Texas on April 25, 2008. A copy of the *Federal Register* notice announcing receipt of the waiver request and soliciting public comment is enclosed. Please be assured that we will take your concerns into consideration and will place your letter in the dockets for both the 2009 RFS rulemaking and the waiver request.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Diann Frantz, in EPA's Office of Congressional and Intergovernmental Relations, at 202-564-3668.

Sincerely,

A handwritten signature in black ink, which appears to read "Robert J. Meyers", is written over a horizontal line.

Robert J. Meyers  
Principal Deputy Assistant Administrator

Enclosure

On April 11, 2008, notice was published that the Commonwealth of Massachusetts had petitioned the Regional Administrator, Environmental Protection Agency, to determine that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the state waters of Scituate, Marshfield, Cohasset, and the tidal portions of the North and South Rivers. No comments were received on this petition.

The petition was filed pursuant to Section 312(f)(3) of Public Law 92-500, as amended by Public Laws 95-217 and 100-4, for the purpose of declaring these waters a "No Discharge Area" (NDA).

Section 312(f)(3) states: After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such States require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply.

The information submitted to EPA by the Commonwealth of Massachusetts

certifies that there are ten pumpout facilities located within the proposed area. A list of the facilities, with phone numbers, locations, and hours of operation is appended at the end of this determination.

Based on the examination of the petition, its supporting documentation, and information from site visits conducted by EPA New England staff, EPA has determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the area covered under this determination.

This determination is made pursuant to Section 312(f)(3) of Public Law 92-500, as amended by Public Laws 95-217 and 100-4.

#### PUMPOUT FACILITIES WITHIN PROPOSED NO DISCHARGE AREA

Name	Location	Contact Info	Hours	Mean low water depth
Cohasset Harbormaster .....	Cohasset Harbor .....	(781) 383-0863 .....	15 May-1 Nov .....	N/A.
		VHF 10, 16 .....	9:00 a.m.-8:00 p.m. ....	Boat Service.
Cole Parkway Marina .....	Scituate Harbor .....	(781) 545-2130 .....	15 May-15 October .....	6 ft.
		VHF 9 .....	8:00 a.m.-4:00 p.m. ....	
Harbor Mooring Service .....	North and South Rivers .....	(781) 544-3130 .....	15 April-1 November .....	N/A.
		Cell (617) 281-4385 .....	Service provided on-call ....	Boat Service.
		VHF 9 .....		
James Landing Marina .....	Herring River, Scituate .....	(781) 545-3000 .....	1 May-15 Oct .....	6 ft.
			8 a.m.-4:30 p.m. ....	
Waterline Mooring .....	Scituate Harbor .....	(781) 545-4154 .....	15 May-15 Oct .....	N/A.
		VHF 9, 16 .....	8 a.m.-5 p.m. ....	Boat Service.
			Or by appointment .....	
Green Harbor Town Pier .....	Green Harbor, Marshfield ...	(781) 834-5541 .....	1 April-15 Nov 24/7 Self-Serve 15 May-30 Sept. Attendant Service 8 a.m.-11:30 p.m..	4 ft.
		VHF 9, 16 .....		
Bridgeway Marina .....	South River, Marshfield .....	(781) 837-9343 .....	15 June-15 October .....	6 ft.
		VHF 9, 11 .....	9-5 p.m. ....	
Erickson's Marina .....	South River, Marshfield .....	(781) 837-2687 .....	15 March-15 November ....	4 ft.
			8 a.m.-5 p.m. ....	
White's Ferry Marina .....	South River, Marshfield .....	(781) 837-9343 .....	15 June-15 October .....	4 ft.
		VHF 9, 11 .....	9-5 p.m. ....	
Mary's Boat Livery .....	North River, Marshfield .....	(781) 837-2322 .....	15 May-1 Oct .....	4 ft.
		VHF 9, 16 .....	8 a.m.-4 p.m. ....	
** Marshfield Yacht Club .....	South River, Marshfield .....	TBA .....	TBA .....	TBA.
** South River Boat Ramp ...	South River, Marshfield .....	TBA .....	TBA .....	TBA.

\*\* Pending facilities.

Dated: May 14, 2008.  
Robert W. Varney,  
Regional Administrator, Region 1.  
[FR Doc. E8-11485 Filed 5-21-08; 8:45 a.m.]  
BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2008-0380; FRL-8569-5]

#### Notice of Receipt of a Request From the State of Texas for a Waiver of a Portion of the Renewable Fuel Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 211(o)(7) of the Clean Air Act (the Act), 42 U.S.C. 7545(o)(7), EPA is issuing a

notice of receipt of a request for a waiver of 50 percent of the renewable fuel standard (RFS) "mandate for the production of ethanol derived from grain." The request has been made by the Governor of the State of Texas. Section 211(o)(7)(A) of the Act allows the Administrator of the EPA to grant the waiver if implementation of the national RFS requirements would severely harm the economy or environment of a state, a region, or the United States, or if EPA determines that there is inadequate domestic supply of renewable fuel. EPA is required by the Act to provide public notice and

opportunity for comment on this request.

**DATES:** *Comments.* Written comments must be received on or before June 23, 2008.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2008-0380, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *E-mail:* [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).

- *Fax:* (202) 566-1741.

- *Mail:* Air and Radiation Docket, Docket ID No. EPA-HQ-OAR-2008-0380, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies.

- *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-OAR-2008-0380. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of

encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**FOR FURTHER INFORMATION CONTACT:**

James W. Caldwell, Office of Transportation and Air Quality, Mailcode: 6406J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343-9303; fax number: (202) 343-2802; e-mail address: [caldwell.jim@epa.gov](mailto:caldwell.jim@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**(A) How Can I Access the Docket and/or Submit Comments?**

EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-OAR-2008-0380, which is available for online viewing at <http://www.regulations.gov>, or in person viewing at the EPA/DC Docket Center Public Reading Room, 1301 Constitution Avenue, NW., Room 3334, Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202-566-1744, and the telephone number for the Air and Radiation Docket is 202-566-1742.

Use <http://www.regulations.gov> to obtain a copy of the waiver request, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

**(B) What Information Is EPA Particularly Interested In?**

On April 25, 2008, the Governor of Texas submitted a request to the Administrator under section 211(o) of the Act for a waiver of 50 percent of the RFS "mandate for the production of ethanol derived from grain." The request includes statements regarding the economic impact of higher corn prices in Texas. This request has been placed in the public docket.

Pursuant to section 211(o)(7) of the Act, EPA specifically solicits comments and information to enable the Administrator to determine if the statutory basis for a waiver of the national RFS requirements has been met and, if so, the extent to which EPA should exercise its discretion to grant a waiver. Section 211(o)(7) of the Act allows the Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, to waive the requirements of the

national RFS at 40 CFR 80.1105, in whole or in part, upon petition by one or more States. A waiver may be granted if the Administrator determines, after public notice and an opportunity for public comment, that implementation of the RFS requirements would severely harm the economy or environment of a state, a region, or the United States; or that there is an inadequate domestic supply of renewable fuel. The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver within 90 days of receiving it. If a waiver is granted, it can last no longer than one year unless it is renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy. The RFS for 2008 was published in the *Federal Register* on February 14, 2008 (73 FR 8665) and was intended to lead to the use of nine (9) billion gallons of renewable fuel in 2008.

EPA requests comment on any matter that might be relevant to EPA's action on the petition, specifically including (but not limited to) information that will enable EPA to:

- Evaluate whether compliance with the RFS is causing severe harm to the economy of the State of Texas;
- evaluate whether the relief requested will remedy the harm;
- determine to what extent, if any, a waiver approval would change demand for ethanol and affect corn or feed prices; and
- determine the date on which a waiver should commence and end if it were granted.

In addition to inviting comments on the above issues, EPA recognizes that it has discretion in deciding whether to grant a waiver, as the statute provides that "[t]he Administrator \* \* \* may waive the requirements of [section 211(o)(2)] in whole or in part" (emphasis supplied) if EPA determines that the severe harm criteria has been met. EPA also recognizes that a waiver would involve reducing the national volume requirements under section 211(o)(2), which would have effects in areas of the country other than Texas, including areas that may be positively impacted by the RFS requirements. Given this, EPA invites comment on all issues relevant to deciding whether and how to exercise its discretion under this provision, including but not limited to the impact of a waiver on other regions or parts of the economy, on the environment, on the goals of the renewable fuel program, on appropriate mechanisms to implement a waiver if a waiver were determined to be

appropriate, and any other matters considered relevant to EPA's exercise of discretion under this provision.

Commenters should include data or specific examples in support of their comments in order to aid the Administrator in determining whether to grant or deny the waiver. Data that shows a quantitative link between the use of corn for ethanol and corn prices, and on the impact of the RFS mandate on the amount of ethanol produced, would be especially helpful.

Dated: May 16, 2008.

Robert J. Meyers,

Principal Deputy Assistant Administrator,  
Office of Air and Radiation.

[FR Doc. E8-11486 Filed 5-21-08; 8:45 am]

BILLING CODE 6640-60-P

## FEDERAL COMMUNICATIONS COMMISSION

### Public Information Collection Requirement Submitted to OMB for Review and Approval, Comments Requested

May 19, 2008.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 23, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of

time allowed by this notice, you should advise the contacts listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via Internet at [Nicholas\\_A\\_Fraser@omb.eop.gov](mailto:Nicholas_A_Fraser@omb.eop.gov) or via fax at (202) 395-5167 and to Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street, SW., Washington, DC or via Internet at [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov) or [PRA@fcc.gov](mailto:PRA@fcc.gov). To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <http://www.reginfo.gov/public/do/PRAMain>; (2) look for the section of the Web page called "Currently Under Review;" (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading; (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box; (5) click the "Submit" button to the right of the "Select Agency" box; and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB control number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418-2918.

#### SUPPLEMENTARY INFORMATION:

**OMB Control Number:** 3060-0009.

**Title:** Application for Consent to Assignment of Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License.

**Form Number:** FCC Form 316.

**Type of Review:** Revision of a currently approved collection.

**Respondents:** Business or other for-profit entities; Not-for-profit institutions; State, local or Tribal government.

**Number of Respondents and Responses:** 750 respondents, 750 responses.

**Frequency of Response:** On occasion reporting requirement.

**Obligation To Respond:** Required to obtain benefits—Statutory authority for this collection of information is contained in Sections 154(i) and 310(d) of the Communications Act of 1934, as amended.

**Estimated Time per Response:** 1-4 hours.

**Total Annual Burden:** 855 hours.

**Total Annual Costs:** \$425,150.

**Confidentiality:** No need for confidentiality required.

**Privacy Impact Assessment:** No impact(s).

**Needs and Uses:** On March 17, 2005, the Commission released a Second Order on Reconsideration and Further Notice of Proposed Rulemaking, Creation of a Low Power Radio Service, MB Docket No. 99-25 (FCC 05-75). The Further Notice of Proposed Rulemaking ("FNPRM") proposed to permit the assignment or transfer of control of Low Power FM (LPFM) authorizations where there is a change in the governing board of the permittee or licensee or in other situations corresponding to the circumstances described above. This proposed rule was subsequently adopted in a Third Report and Order and Second Further Notice of Proposed Rulemaking, MB Docket No. 99-25 (FCC 07-204) (*Third Report and Order*), released on December 11, 2007.

FCC Form 316 has been revised to encompass the assignment and transfer of control of LPFM authorizations, as proposed in the FNPRM and subsequently adopted in the Third Report and Order, and to reflect the ownership and eligibility restrictions applicable to LPFM permittees and licensees.

Filing of the FCC Form 316 is required when applying for authority for assignment of a broadcast station construction permit or license, or for consent to transfer control of a corporation holding a broadcast station construction permit or license where there is little change in the relative interest or disposition of its interests; where transfer of interest is not a controlling one; there is no substantial change in the beneficial ownership of the corporation; where the assignment is less than a controlling interest in a partnership; where there is an appointment of an entity qualified to succeed to the interest of a deceased or legally incapacitated individual permittee, licensee or controlling stockholder; and, in the case of LPFM stations, where there is a voluntary transfer of a controlling interest in the licensee or permittee entity. In addition, the applicant must notify the Commission when an approved transfer of control of a broadcast station construction permit or license has been consummated.

**OMB Control Number:** 3060-0031.

**Title:** Application for Consent to Assignment of Broadcast Station Construction Permit or License; Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License; Section 73.3580, Local Public Notice of Filing of Broadcast Applications.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 25 2006

OFFICE OF CONGRESSIONAL AND  
INTERGOVERNMENTAL RELATIONS

The Honorable Susan Collins  
Chair  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Madam Chair:

I am forwarding a copy of "U.S.-Mexico Border Environment: Air quality and Transportation & Cultural and Natural Resources, Ninth Report of the Good Neighbor Environmental Board to the President and Congress of the United States." This report offers ways that Federal officials can better protect Native American cultural and natural resources along the U.S. and Mexico border to build a cleaner and safer environment. The report also advises how both should retain good air quality and support transportation activities across the border.

I hope you find this report helpful. If you have any questions, please give me a call at (202) 564-5200 or your staff may contact Clara Jones of my staff at (202) 564-3701.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Daigle", is written over a horizontal line.

Stephanie N. Daigle  
Associate Administrator

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 25 2006

OFFICE OF CONGRESSIONAL AND  
INTERGOVERNMENTAL RELATIONS

The Honorable Joseph I. Lieberman  
Ranking Member  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Senator Lieberman:

I am forwarding a copy of "U.S.-Mexico Border Environment: Air quality and Transportation & Cultural and Natural Resources, Ninth Report of the Good Neighbor Environmental Board to the President and Congress of the United States." This report offers ways that Federal officials can better protect Native American cultural and natural resources along the U.S. and Mexico border to build a cleaner and safer environment. The report also advises how both should retain good air quality and support transportation activities across the border.

I hope you find this report helpful. If you have any questions, please give me a call at (202) 564-5200 or your staff may contact Clara Jones of my staff at (202) 564-3701.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephanie N. Daigle", is written over a horizontal line.

Stephanie N. Daigle  
Associate Administrator

Enclosure

JUL 27 2009 4:41PM

AL-09-001-1370

NO. 1378

P. 2/10

SUSAN M. COLLINS  
MAINE

413 DIRKSEN SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-1904  
(202) 224-2529  
(202) 224-2693 (FAX)

## United States Senate

WASHINGTON, DC 20510-1904

COMMITTEES  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
RANKING MEMBER  
APPROPRIATIONS  
ARMED SERVICES  
SPECIAL COMMITTEE  
ON AGING

160 Main Street  
Biddeford, ME 04005  
July 27, 2009

Ms. Joyce K. Frank  
Acting Associate Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW, Room 3426 ARN  
Washington, DC 20005

Dear Ms. Frank:

Senator Susan Collins has been contacted by Mr. Keith Trefethen, Town Manager of Berwick Maine with a request for assistance. The Town of Berwick recently submitted a waiver request to the Buy American provision associated with the 2009 Water Main Improvement project. The Town of Berwick has secured 96.5% of the materials and goods needed for this project in compliance with the Buy American provision. The last 3.5% must come from a Canadian company, due to availability issues.

When Mr. Trefethen submitted the waiver application, he was told it could take as long as a month for the town's waiver to be decided upon. A month long wait will throw off the delicate time table for this project, which is currently set to begin construction on August 3, 2009 and be completed on November 27, 2009. An extended delay could push the completion date back into the winter season which would further delay the completion of the project, and drive up the cost. In hopes of avoiding any unnecessary delays, Mr. Trefethen asked that Senator Collins advocate on the Town of Berwick's behalf with the EPA for speedy completion of the waiver consideration process.

Senator Collins places a high premium on reliable constituent service. With this in mind, I have forwarded Mr. Trefethen's concerns to your attention. Please review the enclosed documents and provide any appropriate assistance in addressing Mr. Trefethen's concerns. Please also consider whether it may be appropriate to expedite the Town of Berwick's waiver request.

Please do not hesitate to contact me with any questions or concerns at, (207) 283-1101. Thank you for your timely attention to this matter.

Sincerely,



Jamie A. Brennan  
Staff Assistant to  
Susan M. Collins  
United States Senator

Enclosure



PRINTED ON RECYCLED PAPER

Town of Berwick Maine  
11 Sullivan Street  
Berwick, Maine 03901

July 21, 2009

United States Environmental Protection Agency  
Region 1  
Via email to [region1waiver@epa.gov](mailto:region1waiver@epa.gov)

Re: Waiver Request – 2009 Water Main Improvements  
Berwick Water Department PWSID#: ME0090150  
Maine DWSFR & ARRA Project#: 2008-20

Dear Sir or Madam:

As the assistance recipient for the referenced project, we are requesting a waiver from the "Buy American" requirements based on availability. This waiver is requested to cover two items: valve boxes and service boxes.

The Town and the Consulting Engineer, Civil Consultants of South Berwick Maine, made a good faith effort to specify materials and manufactured goods that could be produced in the United States in sufficient and reasonably available quantities and of satisfactory quality. This effort resulted in the vast majority of the materials and goods for the water main replacement portion of the project meeting the Buy American requirements. Of the \$182,300 total value of water main materials and goods, all but \$8,349 (3.5%) can meet the requirements (Note: These costs were provided to the Town by the material supplier.).

The Contractor for the project is Mick Construction Corporation of Rollinsford, NH. The contractor has chosen E. J. Prescott of Gardiner, ME as the pipeline materials supplier.

The Agreement between Mick and the Town was signed on July 2, 2009, and the Notice to Proceed was issued on 7 July 2009. The date of Substantial Completion is 27 November 2009. The vast majority of the shop drawings have been received and favorably reviewed. The contractor has informed the Town that they are ready to start pipe work. Layout and signage have already started. Because of the funding of this project with stimulus funds, the schedule has been and continues to be very tight and time is of the essence.

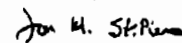
The attached letter from E. J. Prescott (Subject: Service Box Waiver Request) states that there is a three to four week minimum lead time for service boxes manufactured in the United States, while the service boxes manufactured in Canada are available immediately.

The attached letter from E. J. Prescott (Valve Box Waiver Request) states that there is no current domestic supplier of valve boxes meeting the project requirements.

Recognizing the mutual benefit to all the parties to this project, the Town of Berwick has worked very hard to comply with the stringent requirements of the ARRA and DWSFR program. We believe that the spirit of the "Buy America" requirements have been satisfied, and request that this waiver be granted so that the project may proceed expeditiously and on schedule.

Thank you for your consideration of this important request. Please let me know if anything more is required.

Sincerely,

  
Jon St. Pierre, P.E.  
Town Engineer  
[jstpierre@berwickmaine.org](mailto:jstpierre@berwickmaine.org)  
207-698-1101 X104

Attachments:

1. pp 11, 12, 16, 17 "WATER PIPE AND APPURTANCES 02537" of the PROJECT MANUAL (4 pages)
2. Two letters from E. J. Prescott dated July 15, 2009 (2 pages)



YORK COUNTY OFFICE · 160 MAIN STREET · BIDDEFORD, ME · 04005



UNITED STATES SENATOR · MAINE

**SUSAN COLLINS**



**PRIVACY AUTHORIZATION**

Date: 7/27/09

To Whom It May Concern:

In accordance with the requirements of the Privacy Act of 1974, which protects my confidential records from unauthorized release, I am taking this opportunity to give Senator Susan Collins and her staff permission to receive information in my records relative to her inquiry on my behalf.

KEITH TREFETHEN  
Name (Please Print)

For Town of Berwick, Maine

P.O. Box 696 Berwick, ME 03901  
Address

202-888-1101 ext 111  
Telephone Number

\_\_\_\_\_  
Date of Birth

\_\_\_\_\_  
Social Security Number

[Signature]  
Signature

As required, I have included a written explanation of my situation and the action I would like Senator Collins to take on my behalf.



2009 WATER MAIN IMPROVEMENTS  
BERWICK, MAINE

- b. Mueller A-2380
- c. Claw Series F0100
- J. Restrained Joint Gaskets
  - 1. General Specifications
    - a. All accepted restrained joint gaskets in the Berwick Water Berwick Water Department distribution system shall be rated in accordance with the performance requirements of ANSI/AWWA C111/A21.11.
  - 2. Required Applications
    - a. Any hydrant branch or service with a distance greater than 18' shall have an approved restrained joint gasket in the ball ends.
    - b. Where a casing is required on joints within the casing shall have an approved restrained joint gasket unless restrained joint pipe is used.
    - c. At any time as required by the Berwick Water Department.
    - d. Any live service tap where there is a joint between the connection and the end of the service.
  - 3. Approved Manufacturers
    - a. FIELD LOK 250 Gasket - US Pipe
- K. Service Box and Rod
  - 1. General Specifications & Reference Standard Details
    - a. Service Box
      - i. Shall be 1.5" Schedule 40 steel pipe with top having 1.0" N.P.T. pipe threads for screwed cover or coupling.
      - ii. Shall be Rite style with 8" wide-type flange.
      - iii. Any extension of a service box requires a threaded machined coupling with no nut screw.
    - b. Service Box Cover
      - i. Shall be Quinby type (heavy duty) cover that screws on Service Box (see above).

**2000 WATER MAIN IMPROVEMENTS  
SERVICK, MAINE**

11. Shall be tapped with a 1" rope thread with a solid brass plug with pentagon operating head.

**2. Service Box Foot Piece**

- a. The standard foot piece shall be heavy duty (Ford style or equal) cast iron design.
- b. The large, heavy-duty foot piece shall have an arch that will fit over 2" ball valve curb stops.

**3. Service Rod**

- a. Shall have a self-aligning design.
- b. 30" length for all services.
- c. Shall be round and constructed of stainless steel.
- d. Shall have a yoke design that is an integral part of the rod.
- e. The curb-stop attachment pin shall be a brass collar pin.
- f. The rod "wrenchflats" shall have a minimum thickness of 1/4" tapered to 1/16" and width of 5/8" or 1/2".
- g. Diameter.
- h. 1/2", 3/4" and 1" services use 3/4" diameter.
- i. 1 1/2" and 2" services use 3/4" diameter.

**4. Approved Manufacturers**

- a. North American Manufacturers (subject to "Buy American Act")

**L. Service Saddles**

**1. General Specifications for Ductile Iron Pipe**

- a. The service saddle shall have the "larger sized" body, the same as associated with the "service repair" saddle, which shall have a minimum diameter of 5 in. and multiple "O" ring type sealing.
- b. The saddle body shall be constructed of epoxy coated ductile iron.

2008 WATER MAIN IMPROVEMENTS  
BIRWICK, MAINE

with ASTM D2000 2 SAT1E. The gaskets provide a positive 360° seal on the pipe and assure a tight, durable and resilient seal at the pipe sleeve — valve flange junction.

- x. Coating - The sleeve is lined and coated with fusion bonded epoxy. Epoxy to meet the requirements of AWWA C-213.
- xi. Armor - Heavy gauge type 304 stainless steel armor plates are used to bridge the gap between the sleeve halves.

2. Approved Manufacturers

- a. Romeo Industries Inc.

P. Castile Iron Straight and Transition Couplings

1. General Specifications

- a. Center Sleeve: Made from ductile iron per ASTM A539, Grade 65-45-12.
- b. End Rings: Ductile iron, meeting or exceeding ASTM A539, Grade 65-45-12. End rings on transition style couplings are color coded for easy identification.
- c. Gaskets: Virgin SBR rubber compounded for water and sewer service. Meets or exceeds ASTM D2000 MSA 710 or ASTM D2000 SOM 4AA 010. Gaskets are embossed with size for easy identification. Optional armored gaskets are available on some couplings.
- d. Bolts and Heavy Hex Nuts: High strength, low alloy steel, trackhead bolts. UNC 5/8" rolled threads with black finish. Steel meets AWWA C111 specifications.
- e. Other materials or special coatings available on request, including stainless steel bolts.
- f. Finish: To be lined and coated with fusion bonded epoxy. Epoxy to meet the requirements of AWWA C-213.

2. Approved Manufacturers

- a. Romeo Industries Inc.

Q. Valve Boxes

1. General Specifications & Reference Standard Details

2000 WATER MAIN IMPROVEMENTS  
BERWICK, MAINE

- b. The valve box bottom section shall be slide-type with bell-type base.
- c. The valve box top section shall be slide-type, 36 inches long (minimum), with top flange.
- d. The valve box cover shall be a 2" drop-type cover to fit the 7-1/4" opening of the top section.
- e. The valve box intermediate (mid) section shall be slide-type with a minimum 3" belled bottom.
- f. Material shall be cast iron or ductile iron free from defects.
- g. Interior and exterior of all components shall be bituminous coated with a minimum of 4 mils dry film thickness.

2. Approved Manufacturers

- a. North American Manufacturers (subject to "Buy American Act")

2.4 Fire Hydrant

A. Hydrant

1. General Specifications

- a. The hydrant shall be a "non-draining" type that opens LEFT.
- b. The operating nut shall,
  - i. be D.I. or bronze,
  - ii. be pentagon in shape with dimensions: Top 1-13/16" tapering to 1-7/8" on bottom,
- c. Nozzles shall be,
  - i. 4 each, hose nozzle - 2-1/2" National Standard Thread,
  - ii. 1 each, pumper nozzle - 4-1/2" National Standard Thread,
- d. Port covers shall have the same size pentagon opening as specified in 2.0(b) above.
- e. Model shall be a Natick model hydrant with breakaway feature.
- f. Barrel length(s) shall be.

Pipeline Specialists



Evelett J. Prescott, Inc.

July 15, 2009

Jon St. Pierre, P.E.  
Town Engineer  
Town of Berwick, Maine  
11 Sullivan Square  
Berwick, ME 03901

Libby Hill Business Park  
32 Prescott Street  
P.O. Box 600  
Gardiner, ME 04345

Telephone (207) 582-1851  
Fax (207) 582-5637

Website: <http://www.EJPrescott.com>  
E-mail: [ejp@EJPrescott.com](mailto:ejp@EJPrescott.com)

Subject: Valve Box Waiver Request

Dear Jon:

In regards to the upcoming Water main Improvements Project for the Town of Berwick, E.J. Prescott, Inc. will be supplying the necessary water materials to Mick Construction Company of Rollinsford, NH. E.J. Prescott, Inc. has put in its best efforts to meet all of the specifications to the Town of Berwick as well as the requirements for the ARRA "Buy American" provision.

Manufacturers were solicited for pricing, availability, and specifications that meet the requirements of the Town of Berwick Water Department and the ARRA requirements.

- Sigma Corporation - Manufactures valve boxes in China.
- Quality Water Products - Manufactures valve boxes in India.
- Bibby St. Croix - Manufactures valve boxes in Canada.
- East Jordan Iron Works - Manufactures valve boxes in United States.

Of these manufacturers, East Jordan is on its way of setting up a plant to manufacture a domestic valve box. Currently, their plant is not in service. Once set up, E.J.I.W. will only manufacture a 26" Top Flange Valve Box Top. The Town of Berwick specifies a 36" Top Flange Valve Box Top. E.J.I.W. materials will be available in late September.

E.J. Prescott, Inc. suggests that the Town of Berwick submit a letter requesting a waiver from the EPA for the use of twenty-two valve boxes manufactured by Bibby St. Croix on this project. These meet the specifications of the Town of Berwick Water Department. The boxes were quoted to Mick Construction for \$2937.00 for all twenty-two which is 1.6% of the total cost of all materials supplied. There is no current domestic supplier to meet the requirements of the Town of Berwick Water Department of the ARRA package. The Bibby boxes are currently in stock in all of our locations.

Please let me know if you need any further information and I am available to speak with anyone if need be.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe Horton'.

Joe Horton  
Town E.J. Prescott, Inc.  
Outside Marketing Representative

Water • Sewer • Drain • Gas  
SERVING THE NORTHEAST AND MID-WEST



July 15, 2009

Jon St. Pierre, P.E.  
Town Engineer  
Town of Berwick, Maine  
11 Sullivan Square  
Berwick, ME 03901

Libby Hill Business Park  
32 Prescott Street  
P.O. Box 600  
Gardiner, ME 04945

Telephone (207) 582-1851  
Fax (207) 582-5637

Website: <http://www.EJPrescott.com>  
E-mail: [ejp@EJPrescott.com](mailto:ejp@EJPrescott.com)

Subject: Service Box Waiver Request

Dear Jon:

In regards to the upcoming Water main Improvements Project for the Town of Berwick, E.J. Prescott, Inc. will be supplying the necessary water materials to Mick Construction Company of Rollinsford, NH. E.J. Prescott, Inc. has put in its best efforts to meet all of the specifications to the Town of Berwick as well as the requirements for the ARRA "Buy American" provision.

There are eighty-six service boxes on this project totaling \$3,142.00, which is 1.9% of the total cost of all materials being supplied. Misadventures of service boxes were solicited for pricing, availability, and specifications to meet the requirements of the Town of Berwick Water Department and the ARRA requirements.

- Laroche Foundries - Manufactured in Canada, meet all requirements of the Town of Berwick, lowest cost to contractor, available immediately.
- A.Y. McDonald - Assembled in the United States, materials manufactured in Canada, meets all requirements of the Town of Berwick, currently 30 % increase in cost versus Laroche, and they have 3-4 week lead time.
- Bingham & Taylor - Manufactured in Virginia, U.S.A., meets all requirements of the Town of Berwick, currently cost is 39% increase in cost versus Laroche, and lead time is 4-6 weeks.
- Ford Motor Box - Manufactured Indiana, U.S.A., meets most but not all requirements of the Town of Berwick, Covers do not have a "rope thread" as specified and Ford can provide a domestic double lead rod but outources its stainless steel rods which are specified by the Town of Berwick. Cost for the boxes and covers alone are 46 % more than Laroche and their stainless steel rods are 70% more than Laroche. Lead time is 3-4 weeks.

E.J. Prescott, Inc. suggests that the Town of Berwick submit a letter requesting a federal waiver for the use of non-domestic service boxes on this project. The use of Laroche service boxes would allow this project to move forward and not be held up by the lead times that will be faced with other manufacturers.

Please let me know if there is any additional information you may need or I am always available to speak with anyone if need be.

Sincerely,

  
Joe Prescott  
Team E.J. Prescott, Inc.  
Outside Marketing Representative

Water • Sewer • Drain • Gas  
SERVING THE NORTHEAST AND MID-WEST



UNITED STATES SENATOR • MAINE

**SUSAN COLLINS**

FAX COVER SHEET



**YORK COUNTY OFFICE  
160 MAIN STREET  
BIDDEFORD, ME 04005**

PHONE: (207) 283-1101 FAX: (207) 283-4054

TO: Joyce Frank

ADDRESS: \_\_\_\_\_

FAX: 202-501-1519

FROM: Janice Brennan

TIME: \_\_\_\_\_

DATE: 7/27/09

PAGES (including this cover sheet): 10

COMMENTS:

Please See Attached  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 1  
1 CONGRESS STREET, SUITE 1100  
BOSTON, MASSACHUSETTS 02114-2023

August 5, 2009

OFFICE OF THE  
REGIONAL ADMINISTRATOR

The Honorable Susan M. Collins  
United States Senator  
160 Main St.  
Biddeford, ME 04005

Dear Senator Collins:

Thank you for your letter of July 27, 2009, concerning the Town of Berwick's request for a Buy American waiver for its Water Main Improvement Project.

The Town of Berwick submitted a waiver request package on July 21, 2009. The submittal requested a project waiver of the Buy American requirements of the American Recovery and Reinvestment Act Section 1605 under the authority of Section 1605(b)(2) [manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality] for the purchase of specific cast iron valve boxes.

On July 24, 2009, Michael Shapiro, the Acting Assistant Administrator for Water, signed a revised de minimis national waiver. This waiver covers incidental low-cost components which cumulatively total less than 5% of the materials cost of the project. The Town of Berwick was notified of this national waiver via email on July 29, 2009.

In both the waiver request submittal and the letter from Senator Collins, it was noted that the valve boxes accounted for 3.5% of the materials cost. As long as all of the incidental low-cost components when combined with "penny-a-pound" elements, such as nuts and bolts, total less than 5% of the materials cost, then the cast iron valve boxes would fall under this revised de minimis national waiver. If all these components total more than 5% of the materials cost, then the assistance recipient will need to choose which of these incidental components will be covered under the national waiver and which will not. The components that are chosen to not be covered under the national waiver must receive an individual project waiver. A copy of the revised waiver is enclosed for your information.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Ms. Michael Ochs in the Office of Government Relations at (617) 918-1066.

Sincerely,

A handwritten signature in black ink, appearing to read "Ira W. Leighton", followed by a horizontal line.

Ira W. Leighton  
Acting Regional Administrator

Enclosure

**ENVIRONMENTAL PROTECTION AGENCY**

**[FRL XXXX-X]**

**Notice of revised nationwide waiver of Section 1605 (Buy American requirement) of American Recovery and Reinvestment Act of 2009 (ARRA) based on public interest for *de minimis* incidental components of projects financed through the Clean or Drinking Water State Revolving Funds using assistance provided under ARRA.**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The EPA is hereby granting a nationwide waiver of the Buy American requirements of ARRA Section 1605 under the authority of Section 1605(b)(1) (public interest waiver) for *de minimis* incidental components of eligible water infrastructure projects funded by ARRA. This action revises the terms under which incidental components qualify for coverage under the public interest *de minimis* waiver signed and effective on May 22, 2009, and permits the use of non-domestic iron, steel, and manufactured goods when they occur in *de minimis* incidental components of such projects funded by ARRA that may otherwise be prohibited under section 1605(a).

**EFFECTIVE DATE:** July 24, 2009.

**FOR FURTHER INFORMATION CONTACT:** Jordan Dorfman, Attorney-Advisor,

Office of Wastewater Management, (202) 564-0614, or Philip Metzger, Attorney Advisor, Office of Ground Water and Drinking Water, (202) 564-3776, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

**SUPPLEMENTARY INFORMATION:** In accordance with ARRA Section 1605(c), the EPA hereby provides notice that it is granting a nationwide waiver of the requirements of section 1605(a) of P.L. 111-5, Buy American requirements, based on the public interest authority of section 1605(b)(1), to allow the use of non-domestic iron, steel, and manufactured goods when they occur in *de minimis* incidental components of eligible projects for which a Clean or Drinking Water State Revolving Fund (SRF) has concluded or will conclude an assistance agreement using ARRA funds where such components cumulatively comprise no more than a total of 5 percent of the total cost of the materials used in and incorporated into a project.

Among the General Provisions of the American Recovery and Reinvestment Act of 2009 (ARRA), Section 1605(a) requires that "all of the iron, steel, and manufactured goods used in" a public works project built with ARRA funds must be produced in the United States, unless the head of the respective Federal department or agency determines it necessary to waive this requirement based on findings set forth in Section 1605(b). In addition, expeditious construction of SRF projects is made a high priority by a provision in the ARRA Title VII appropriations heading for the SRFs, which states "[t]hat the Administrator shall reallocate funds ... where projects are not under contract or construction within 12 months of" ARRA enactment (February 17, 2010). The finding

relevant to this waiver is that "applying [ARRA's Buy American requirement] would be inconsistent with the public interest" (1605(b)(1)).

EPA originally issued this waiver on May 22, 2009. This notice revises the terms under which that waiver may be applied, and, in accordance with the requirements of Section 1605(c) that all waivers granted must include a "detailed written justification", adds new information and repeats relevant information that continues to justify this revised waiver.

In implementing ARRA section 1605, EPA must ensure that the section's requirements are applied consistent with congressional intent in adopting this section and in the broader context of the purposes, objectives, and other provisions of ARRA applicable to projects funded under the Clean and Drinking Water State Revolving Funds (SRF), particularly considering the SRFs' 12 month "contract or construction" requirement. Further, in the context of ARRA's SRF "contract or construction" deadline, Congress' overarching directive to

*[t]he President and the heads of Federal departments and agencies [is that they] shall manage and expend the funds made available in this Act so as to achieve the purposes [of this Act], including commencing expenditures and activities as quickly as possible consistent with prudent management. [ARRA Section 3(b)]*

Water infrastructure projects typically contain a relatively small number of high-cost components incorporated into the project that are iron, steel, and manufactured goods, such as pipe, tanks, pumps, motors, instrumentation and control equipment, treatment process equipment, and relevant materials to build structures for such facilities as

treatment plants, pumping stations, pipe networks, etc. In bid solicitations for a project, these high-cost components are generally described in detail via project specific technical specifications. For these major components, utility owners and their contractors are generally familiar with the conditions of availability, the potential alternatives for each detailed specification, the approximate cost, and the country of manufacture of the available components.

Every water infrastructure project also involves the use of literally thousands of miscellaneous, generally low-cost components that are essential for, but incidental to, the construction and are incorporated into the physical structure of the project, such as nuts, bolts, other fasteners, tubing, gaskets, etc. For many of these incidental components, the country of manufacture and the availability of alternatives is not always readily or reasonably identifiable prior to procurement in the normal course of business; for other incidental components, the country of manufacture may be known but the miscellaneous character in conjunction with the low cost, individually and (in total) as typically procured in bulk, mark them as properly incidental.

EPA undertook multiple inquiries to identify the approximate scope of these *de minimis* incidental components within water infrastructure projects. EPA consulted informally with many major associations representing equipment manufacturers and suppliers, construction contractors, consulting engineers, and water and wastewater utilities, and a contractor performed targeted interviews with several well-established water infrastructure contractors and firms who work in a variety of project sizes, and regional and demographic settings. The contractor asked the following questions:

- What percentage of total project costs were consumables or incidental costs?
- What percentage of materials costs were consumables or incidental costs?
- Did these percentages vary by type of project (drinking water vs. wastewater treatment plant vs. pipe)?

The responses were consistent across the variety of settings and project types, and indicated that the percentage of total costs for drinking water or wastewater infrastructure projects represented by these incidental components is generally not in excess of 5 percent of the total cost of the materials used in and incorporated into a project. In drafting this waiver, EPA has considered the *de minimis* proportion of project costs generally represented by each individual type of these incidental components within the hundreds or thousands of types of such components comprising those percentages, the fact that these types of incidental components are obtained by contractors in many different ways from many different sources, and the disproportionate cost and delay that would be imposed on projects if EPA did not issue this waiver.

Subsequent to the issuance of the original public interest *de minimis* waiver on May 22, 2009, EPA has received many, similar waiver requests from numerous assistance recipients (located in a few States that have issued a substantial number of SRF assistance agreements funded by ARRA) on a variety of low-cost components whose national origin can be identified. Even as typically procured in bulk (several dozen for small projects), the total cost of these components is much less than 5 percent of the total materials cost of these projects. These types of components would properly be considered subject to the

previous nationwide public interest *de minimis* waiver but for the requirement in that waiver that the national origin of these low-cost, miscellaneous components “not [be] readily or reasonably identifiable prior to procurement in the normal course of business.” It also appears that when EPA inquired of various parties to develop the percentage limit on the waiver, the percentages were identified with the inclusion of these types of components in mind.

Due to the diverse characteristics of the specific configurations of these individually low-cost components, the analysis and consideration of waiver requests for them – and particularly of ascertaining whether US-made products exist or can be made to meet these diverse configurations – is already becoming a demanding and time-consuming task far out of proportion to the percentage of total project materials cost they comprise. As a rapidly increasing number of States begin to issue numerous assistance agreements, EPA recognizes the prospect of considering dozens of differently framed waivers in most if not all States for each of these types of components, in addition to those for major components that are most appropriately the focus of the waiver process set forth in Section 1605. Because the established practices of specification and use of these low-cost components appear to be widely varied by Region and to some extent by State and individual recipient, it is unlikely to be practicable to formulate categorical waivers for such components, even if justified. If this pattern of waiver requests is allowed to expand to a national scale, the resources and capacities of the waiver program, for EPA and assistance recipients alike, will be so consumed by necessary analysis of the minute variations in circumstances among these low-cost items that this will become a serious

obstacle to ensuring that all recipients will be able to sign construction contracts by February 17, 2010.

Assistance recipients who do not have their compliance with respect to section 1605 clarified may in many cases be unable to sign contracts by the February 17, 2010 date, causing these communities to lose their ARRA assistance and requiring EPA to reallocate to other States all ARRA funds not under contract by that date. This in turn will lead to further delay in placing the reallocated funds into other projects, which is inconsistent with the public interest and the intent and purpose of ARRA. It would be further inconsistent with ARRA to deprive of ARRA assistance these States and communities whose funds are reallocated due to a waiver process that would have become backlogged under the complexity of investigating waiver requests for incidental components costing a fraction of the 5 percent of the materials cost of a project.

Under these circumstances, EPA must place the highest priority on enabling States and their assistance recipients to meet this February 17, 2010 deadline set by Congress for the SRFs specifically. As the situations described above would be effectively addressed by a more comprehensive application of the *de minimis* waiver, EPA has found that it would be inconsistent with the public interest – and particularly with ARRA's directives to ensure expeditious SRF construction consistent with prudent management, as cited above – to apply the Buy American requirement to incidental components when they in total comprise no more than 5 percent of the total cost of the materials used in and incorporated into a project. Accordingly, EPA is hereby issuing a national waiver from the requirements of ARRA Section 1605(a) for any components described above as



incidental that comprise in total a *de minimis* amount of the project, that is, for any such incidental components up to a limit of no more than 5 percent of the total cost of the materials used in and incorporated into a project.

Assistance recipients who wish to use this waiver should in consultation with their contractors determine the items to be covered by this waiver, must retain relevant documentation as to those items in their project files, and must summarize in reports to the State the types and/or categories of items to which this waiver is applied, the total cost of incidental components covered by the waiver for each type or category, and the calculations by which they determined the total cost of materials used in and incorporated into the project.

In using this waiver, assistance recipients should consider that all SRF-funded construction projects by definition require the expenditure of a certain amount of project funds on the literal “nuts and bolts”-type components whose origins cannot readily be identified prior to procurement. As described above, EPA has determined the 5 percent limit based on research and informed professional judgment as to the maximum total amount of incidental goods used in most water and wastewater projects. In a few, exceptional cases, assistance recipients using this waiver may have multiple types of low-cost components which, when combined and in conjunction with those literal “nuts and bolts”-type components, may total more than 5 percent. Assistance recipients in such cases will have to choose which of these incidental components will be covered by the waiver and which will not, and will include the type and amount of such items covered in the reports to the State as required above. Components which the recipient is unable to

include within the 5 percent limit of this waiver must comply with the requirements of section 1605 by appropriate means other than coverage under this waiver.

Therefore, for the foregoing reasons, imposing ARRA's Buy American requirements for the category of *de minimis* incidental components described herein is not in the public interest. This supplementary information constitutes the "detailed written justification" required by Section 1605(c) for waivers "based on a finding under subsection (b)."

Authority: P.L 111-5, section 1605.

Date: 7/24/09

Michael H. Shapiro 

Acting Assistant Administrator for Water.



{In Archive} RE: FW: Lem Walker - Gulf oil in water analysis - OSS offering volunteer services to EPA

Kennett, Chip (HSGAC)

to:

Carolyn Levine

06/15/2010 09:34 AM

Cc:

Arvin Ganesan, "Carroll, Amy (Collins)"

Hide Details

From: "Kennett, Chip (HSGAC)" <Chip\_Kennett@hsgac.senate.gov>

To: Carolyn Levine/DC/USEPA/US@EPA

Cc: Arvin Ganesan/DC/USEPA/US@EPA, "Carroll, Amy (Collins)"  
<Amy\_Carroll@collins.senate.gov>

History: This message has been replied to.

Archive: This message is being viewed in an archive.

Caroline,

Thank you for getting back to me. For my clarification, when you say learn of the status, does that mean someone at EPA is looking into OSS' technology?

Thanks,

Chip

---

**From:** Levine.Carolyn@epamail.epa.gov [<mailto:Levine.Carolyn@epamail.epa.gov>]

**Sent:** Tuesday, June 15, 2010 8:29 AM

**To:** Kennett, Chip (HSGAC)

**Cc:** Ganesan.Arvin@epamail.epa.gov

**Subject:** Re: FW: Lem Walker - Gulf oil in water analysis - OSS offering volunteer services to EPA

Hi Chip,

As soon as we learn the status we will let you know.

-----  
Carolyn Levine  
U.S. EPA/Office of Congressional Affairs  
(202) 564-1859  
FAX: (202) 501-1550

-----"Kennett, Chip (HSGAC)" <Chip\_Kennett@hsgac.senate.gov> wrote: -----

To: Arvin Ganesan/DC/USEPA/US@EPA  
From: "Kennett, Chip (HSGAC)" <Chip\_Kennett@hsgac.senate.gov>  
Date: 06/15/2010 07:50AM  
cc: Carolyn Levine/DC/USEPA/US@EPA  
Subject: Re: FW: Lem Walker - Gulf oil in water analysis - OSS offering volunteer services to EPA

Arvin and Carolyn,

Dean from OSS is going to be followed by the press today. A phone call from someone at EPA, or at the very least, a msg from me to Dean saying you folks are working on it, would go a long way. I know you are probably getting a thousand similar requests, so I greatly appreciate any assistance.  
Please let me know if you plan on contacting Dean or if I can let him know you are working on it.

Thanks,

Chip

----- Original Message -----  
From: Ganesan.Arvin@epamail.epa.gov <Ganesan.Arvin@epamail.epa.gov>  
To: Kennett, Chip (HSGAC)  
Cc: Levine.Carolyn@epamail.epa.gov <Levine.Carolyn@epamail.epa.gov>  
Sent: Mon Jun 14 10:26:04 2010  
Subject: Re: FW: Lem Walker - Gulf oil in water analysis - OSS offering volunteer services to EPA

Adding Carolyn.

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov

|----->  
| From: |  
|----->  
>-----
-
"Kennett, Chip (HSGAC)" <Chip\_Kennett@hsgac.senate.gov>
>-----
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| To: |  
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Arvin Ganesan/DC/USEPA/US@EPA
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| Subject: |  
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>-----
-
FW: Lem Walker - Gulf oil in water analysis - OSS offering
volunteer services to EPA
>-----
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-|

Arvin,

Here is some more background regarding the ME company that wants to volunteer its services in the Gulf.

Thanks,  
CK

-----Original Message-----

From: Dean J. Smith [<mailto:dean.smith@ossmaine.com>]  
Sent: Sunday, June 13, 2010 9:48 AM  
To: [autry.lara@epamail.epa.gov](mailto:autry.lara@epamail.epa.gov)  
Cc: Dean J. Smith  
Subject: Re: Lem Walker - Gulf oil in water analysis - OSS offering volunteer services to EPA

Hi Lara,

We have been on the ground here in the Gulf sampling and analyzing samples from Cypremort to East Cote Blanche Cove to Cocodrie and Grand Ilse to Grand Terra Island area. See <http://ossmaine.com/blog/> for our some recent progress.

We know we can help with sampling and quick oil in water analysis - this is technology that EPA has supported! - please direct us to who / where / when!

We met up with Katy Miley in Cocodrie (from EPA REGION VII On-scene Coordinator, Emergency Response and Removal South Branch, cell #: [miley.katy@epa.gov](mailto:miley.katy@epa.gov)). They are doing a lot of sampling ahead of the oil in that area and having to send samples out for analysis (which takes several days!). We volunteered our services and technology and she seemed interested - but did not have the authority to make that call. Maybe you can?

My cell is

Please help us find a way to effectively provide assistance in this disaster! It is so disheartening and people here are very frustrated with response efforts and lack of information.

Sincerely,  
Dean

> Hi Lara,  
>  
> Great! I look forward to hearing from you and providing  
assistance  
in  
> any way we can.  
>  
> Take Care,  
> Dean  
>  
>> Hi Dean!  
>>  
>> Let me see what I can do. I am working on the spill and have  
contacts  
>> on  
>> all sides. They have given me a few days off, however, and I will  
be  
>> out  
>> of pocket till later this evening. Will be in touch soon, though.  
>>  
>> Thank you for getting in touch with me!  
>> Lara  
>>  
>> Sent by EPA Wireless E-Mail Services  
>>  
>>  
>> ----- Original Message -----  
>> From: "Dean J. Smith" [dean.smith@ossmaine.com]  
>> Sent: 06/08/2010 12:09 PM AST  
>> To: Lara Autry  
>> Cc: dean.smith@ossmaine.com  
>> Subject: Lem Walker - Gulf oil in water analysis - OSS offering  
>> volunteer  
>> services to EPA  
>>  
>>  
>>  
>> Hi Lara,  
>>  
>> I have been talking with Lem Walker during the ASTM  
conference and have  
>> filled him in on the fact that our company, Orono Spectral  
Solutions  
>> (OSS), is heading to the Gulf from June 10-June 25 in support of  
clean  
>> up  
>> and analysis. He suggested that I contact you to let you know what  
we

>> are up to and to see if we can be of assistance to EPA's mission  
to  
>> support the region.  
>>  
>> We are putting our green, solventless oil in water method ASTM  
D7575  
>> (Lem  
>> Walker and Dick Reding helped support and direct the method  
development  
>> -  
>> which is awaiting EPA CFR inclusion) to field use. We are working  
with  
>> Petroleum Laboratories Inc. and have also offered our services to  
LADEQ  
>> and BP but have not had good luck solidifying a role. Lem  
mentioned  
>> that  
>> you may have some direct contacts in the Gulf that we could assist  
in  
>> performing sampling and analyses. Our unique field-portable  
technology  
>> measures oil in water and has the potential to simultaneously  
determine  
>> other chemicals as well (e.g. dispersants). Because of this  
disaster,  
>> not  
>> surprisingly, we have been contacted a lot lately several  
organizations  
>> (commercial labs, government labs, API, POTW, etc.) that view see  
the  
>> benefit of our method. We are offering our services and analyses  
for  
>> free  
>> - and would offer the data we collect to EPA. Can you please  
direct  
us  
>> to  
>> the best possible path to help the Gulf effort? We are ready and  
>> willing  
>> to help now.  
>>  
>> Also - we have been invited to participate in a 3-6 month marine  
>> toxicological ship research trip starting July 9 from the Atlantic to  
the  
>> Gulf and back to the North Atlantic in an attempt to document the  
>> petroleum-related toxicological impact on the water, plankton,  
shellfish,  
>> fish, etc. before, during and (hopefully) after the spill. If EPA  
has  
>> interest in this effort please let us know as well.



>>  
>> Sincerely,  
>> Dean  
>>  
>> --  
>> Dean J. Smith  
>> Vice President for Engineering  
>> OSS - Orono Spectral Solutions  
>> 983 Stillwater Ave., Old Town, ME 04468  
>>  
>> FAX: 1-866-660-4759  
>> EMAIL: dean.smith@ossmaine.com  
>> WEB: [www.ossmaine.com](http://www.ossmaine.com)

>>  
>>  
>>  
>  
>  
> --  
> Dean J. Smith  
> Vice President for Engineering  
> OSS - Orono Spectral Solutions  
> 983 Stillwater Ave., Old Town, ME 04468  
>  
> FAX: 1-866-660-4759  
> EMAIL: dean.smith@ossmaine.com  
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{In Archive} Re: B-MACT and NHSM  
Kurtz, Olivia (Collins) to: Josh Lewis  
Cc: "Cashwell, Morgan (Collins)", Carolyn Levine

10/14/2011 03:38 PM

Archive: This message is being viewed in an archive.

Thanks, Josh- will the announcement be today? A briefing next week would be great. Thank you

----- Original Message -----

From: Lewis.Josh@epamail.epa.gov [mailto:Lewis.Josh@epamail.epa.gov]  
Sent: Friday, October 14, 2011 03:35 PM  
To: Kurtz, Olivia (Collins)  
Cc: Cashwell, Morgan (Collins); Levine.Carolyn@epamail.epa.gov  
<Levine.Carolyn@epamail.epa.gov>  
Subject: Re: B-MACT and NHSM

I just heard that we're announcing that we will be proposing targeted revisions to the NHSM rule. Here's the desk statement with a bit of additional background. Happy to help set up a briefing early next week to discuss further.

EPA is announcing that it will be proposing targeted revisions to the Non-Hazardous Secondary Materials (NHSM) rule to help industry better determine if the materials they are burning are non-waste fuels. This action will provide clarity and certainty under the Clean Air Act for industries burning materials, like biomass, while preserving the public health protections that the American people demand and deserve. We will continue to provide common sense solutions that keep Americans healthy while at the same time giving businesses the clarity they need to thrive and create jobs.

Josh Lewis  
USEPA/Office of Congressional and Intergovernmental Relations  
phone: 202-564-2095  
fax: 202-501-1550

From: "Kurtz, Olivia (Collins)"  
<Olivia\_Kurtz@collins.senate.gov>  
To: Josh Lewis/DC/USEPA/US@EPA  
Cc: "Cashwell, Morgan (Collins)"  
<Morgan\_Cashwell@collins.senate.gov>  
Date: 10/14/2011 01:17 PM

Subject: B-MACT and NHSM

Hi, Josh- It's been a while, hope you are well!  
Sorry to cold email, but are you expecting an EPA  
announcement today on  
the NHSM rule?  
If so, I'd really appreciate it if you could keep us  
posted.  
Thank you- Olivia

Olivia Kurtz  
Office of Senator Susan Collins  
Dirksen 413 | Washington, D.C. 20510

Connect with Senator Collins  
(Embedded image moved to file:  
pic12053.jpg)facebook\_emailSig(Embedded  
image moved to file:  
pic16962.jpg)youtube\_emailSig(Embedded image moved  
to file: pic03584.jpg)linkedin-in-button.jpg(Embedded  
image moved to  
file: pic29734.jpg)RSS\_emailSig(Embedded image moved  
to file:  
pic06654.jpg)blogger\_emailSig

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This was done to limit the distribution of computer  
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attachment, you can  
rename the file extension to its correct name.

For further information, please contact the EPA Call  
Center at  
(866) 411-4EPA (4372). The TDD number is (866)  
489-4900.

\*\*\*\*\* ATTACHMENT NOT DELIVERED  
\*\*\*\*\*



{In Archive} FW: Junior EPA contact?

Harris, Lorinda (HSGAC)

to:

Carolyn Levine

05/13/2011 12:27 PM

Cc:

Stacy Ewing

Hide Details

From: "Harris, Lorinda (HSGAC)" <Lorinda\_Harris@hsgac.senate.gov>

To: Carolyn Levine/DC/USEPA/US@EPA

Cc:

Archive: This message is being viewed in an archive.

Hi Carolyn,

Thanks so much for your help with this! I have copied the constituent's mother - on this email. (The student's name is Brett, and he is 11 ½ years old.)

Stacy – here is Carolyn's contact info:

Carolyn Levine

U.S. EPA

Office of Congressional & Intergovernmental Relations

[Levine.carolyn@epamail.epa.gov](mailto:Levine.carolyn@epamail.epa.gov)

Phone: (202) 564-1859

FAX: (202) 501-1550

Carolyn - I suspect Stacy and her son Brett will reach out to you directly via email with his questions. Maybe you even have some general information you provide for student requests? (If not, no worries. He will get his questions to you.)

Thanks again,  
Lorinda

Lorinda B. Harris

*Counsel*

Senate Committee on Homeland Security and Governmental Affairs  
Senator Susan M. Collins (R-ME), Ranking Member



{In Archive} Public Comments

Gagnon, Jennifer (HSGAC)

to:

Carolyn Levine

05/25/2005 09:04 AM

Hide Details

From: "Gagnon, Jennifer (HSGAC)" <Jennifer\_Gagnon@hsgac.senate.gov>

To: Carolyn Levine/DC/USEPA/US@EPA

Archive: This message is being viewed in an archive.

Carolyn,

Michael Bopp suggested I contact you and that you may be of help (I'm his assistant). I need to track down the public comments for EPA chemical accident prevention regulations-- the regulations at 40 CFR Part 68 (went final on January 31, 1994 (59 FR 4493)). I tried the EPA website, but apparently dockets are only online from 2002 on. I'm trying to find out whether there was any public comment and discussion thereon on the idea of the EPA requiring chemical facilities to adopt safer technologies or to switch to safer, alternative chemicals.

Thanks for your help!

Jenny

Jennifer E. Gagnon

Executive Assistant to the Staff Director

U.S. Senate Committee on Homeland Security and Governmental Affairs

Chairman Susan M. Collins (R-ME)

340 Dirksen Senate Office Building



{In Archive} Constiuent concerns about oil dispersants in the gulf  
Cashwell, Morgan (Collins)

to:

Carolyn Levine

07/07/2010 02:24 PM

Hide Details

From: "Cashwell, Morgan (Collins)" <Morgan\_Cashwell@collins.senate.gov>

To: Carolyn Levine/DC/USEPA/US@EPA

Archive: This message is being viewed in an archive.

Hi Ms. Levine,

Our office has been contacted by several constituents concerned about the toxicity of the dispersants being used in the gulf. I understand that the EPA has recently conducted a first round of testing on these dispersants and has found no alarming results, but has told BP they should reduce their usage and will continue to test the dispersants, according to the press release on the EPA home page.

Do you have any other language you have been using for citizens concerned about the toxicity of the dispersants, or is most of the information on this issue in the press release?

Thank you very much,

Morgan Cashwell  
Legislative Correspondent  
U.S. Senator Susan Collins  
413 Dirksen Senate Building  
Washington D.C. 20510





{In Archive} Senator Collins letter

Carroll, Amy (Collins)

to:

Carolyn Levine

03/07/2008 05:30 PM

Hide Details

From: "Carroll, Amy (Collins)" <Amy\_Carroll@collins.senate.gov>

To: Carolyn Levine/DC/USEPA/US@EPA

History: This message has been forwarded.

Archive: This message is being viewed in an archive.

1 Attachment



Dear Mr Johnson EPA Letter for Lewiston.pdf

Ms. Levine,

I just wanted to let you know that Senator Collins sent the attached letter to Administrator Johnson today. She would appreciate a prompt response. If you have any questions feel free to call me at 202-224-2523

Thank you,

Amy

*Amy Carroll, Ph.D.*

*Office of Senator Susan Collins (R-ME)*

*413 Dirksen Senate Office Building*

*Washington, DC 20510*

*Fx: 202-224-2168*

*amy\_carroll@collins.senate.gov*

SUSAN M. COLLINS  
MAINE

413 DIRKSEN SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-1804  
(202) 224-2523  
(202) 224-2693 (FAX)

## United States Senate

WASHINGTON, DC 20510-1904

COMMITTEES:  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
RANKING MEMBER  
ARMED SERVICES  
SPECIAL COMMITTEE  
ON AGING

March 7, 2008

Mr. Stephen L. Johnson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Ariel Rios Building  
Washington, DC 20460

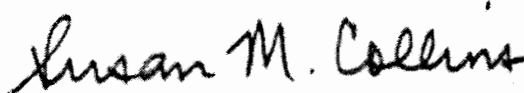
Dear Mr. Johnson:

I am writing you today on behalf of the City of Lewiston, Maine. As you know, the City of Lewiston has been in the process of developing the Gendron Business Park. Recently, the City has faced difficulty obtaining prompt responses about the federal environmental permits required for this project to move forward.

The Gendron Business Park Phase II project is part of a significant economic revitalization effort in the City of Lewiston. The people of Maine are known internationally as good stewards of the environment. As such, we place a high priority on balancing the needs of the economy and those of the environment. It is my hope that you will work with the City to establish a plan that is acceptable to all parties involved.

The City of Lewiston has worked hard over the past few years to satisfy the recommendations of the Environmental Protection Agency, Army Corps of Engineers, and U.S. Fish and Wildlife Service. The City has responded promptly to concerns raised by your agency throughout the permit process. It is my hope that you will give this issue proper attention. Thank you for your consideration of this matter.

Sincerely,



Susan M. Collins  
United States Senator

SMC:deh  
cc: Director, FWS  
Assistant Secretary of the Army, Civil Works



PRINTED ON RECYCLED PAPER



{In Archive} RE: FW: Lem Walker - Gulf oil in water analysis - OSS offering volunteer services to EPA

Carroll, Amy (Collins)

to:

Kennett, Chip (HSGAC), Carolyn Levine

06/15/2010 09:52 AM

Cc:

Arvin Ganesan

Hide Details

From: "Carroll, Amy (Collins)" <Amy\_Carroll@collins.senate.gov>

To: "Kennett, Chip (HSGAC)" <Chip\_Kennett@hsgac.senate.gov>, Carolyn Levine/DC/USEPA/US@EPA

Cc: Arvin Ganesan/DC/USEPA/US@EPA

History: This message has been replied to.

Archive: This message is being viewed in an archive.

Carolyn,

I also wanted to add that back in December OSS' method was designated ASTM Method D7575 '*Standard Test Method for Solvent-Free Membrane Recoverable Oil and Grease by Infrared Determination.*', meaning that this worldwide standards setting organization has verified it as a legitimate technology.

Thanks for your help,

Amy

Amy Carroll

---

**From:** Kennett, Chip (HSGAC)

**Sent:** Tuesday, June 15, 2010 9:34 AM

**To:** 'Levine.Carolyn@epamail.epa.gov'

**Cc:** Ganesan.Arvin@epamail.epa.gov; Carroll, Amy (Collins)

**Subject:** RE: FW: Lem Walker - Gulf oil in water analysis - OSS offering volunteer services to EPA

Caroline,

Thank you for getting back to me. For my clarification, when you say learn of the status, does that mean

someone at EPA is looking into OSS' technology?

Thanks,

Chip

---

**From:** Levine.Carolyn@epamail.epa.gov [mailto:Levine.Carolyn@epamail.epa.gov]  
**Sent:** Tuesday, June 15, 2010 8:29 AM  
**To:** Kennett, Chip (HSGAC)  
**Cc:** Ganesan.Arvin@epamail.epa.gov  
**Subject:** Re: FW: Lem Walker - Gulf oil in water analysis - OSS offering volunteer services to EPA

Hi Chip,

As soon as we learn the status we will let you know.

-----  
Carolyn Levine  
U.S. EPA/Office of Congressional Affairs  
(202) 564-1859  
FAX: (202) 501-1550

-----"Kennett, Chip (HSGAC)" <Chip\_Kennett@hsgac.senate.gov> wrote: -----

To: Arvin Ganesan/DC/USEPA/US@EPA  
From: "Kennett, Chip (HSGAC)" <Chip\_Kennett@hsgac.senate.gov>  
Date: 06/15/2010 07:50AM  
cc: Carolyn Levine/DC/USEPA/US@EPA  
Subject: Re: FW: Lem Walker - Gulf oil in water analysis - OSS offering volunteer services to EPA

Arvin and Carolyn,

Dean from OSS is going to be followed by the press today. A phone call from someone at EPA, or at the very least, a msg from me to Dean saying you folks are working on it, would go a long way. I know you are probably getting a thousand similar requests, so I greatly appreciate any assistance. Please let me know if you plan on contacting Dean or if I can let him know you are working on it.

Thanks,

Chip

----- Original Message -----

From: Ganesan.Arvin@epamail.epa.gov <Ganesan.Arvin@epamail.epa.gov>  
To: Kennett, Chip (HSGAC)  
Cc: Levine.Carolyn@epamail.epa.gov <Levine.Carolyn@epamail.epa.gov>  
Sent: Mon Jun 14 10:26:04 2010  
Subject: Re: FW: Lem Walker - Gulf oil in water analysis - OSS

offering volunteer services to EPA

Adding Carolyn.

-----  
ARVIN R. GANESAN  
Deputy Associate Administrator  
Congressional Affairs  
Office of the Administrator  
United States Environmental Protection Agency  
Ganesan.Arvin@epa.gov

|----->  
| From: |  
|----->  
>-----
-
"Kennett, Chip (HSGAC)" <Chip\_Kennett@hsgac.senate.gov>
>-----
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|----->  
| To: |  
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Arvin Ganesan/DC/USEPA/US@EPA
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06/14/2010 10:22 AM
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|FW: Lem Walker - Gulf oil in water analysis - OSS offering
volunteer services to EPA
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Arvin,

Here is some more background regarding the ME company that wants to volunteer its services in the Gulf.

Thanks,  
CK

-----Original Message-----

From: Dean J. Smith [<mailto:dean.smith@ossmaine.com>]  
Sent: Sunday, June 13, 2010 9:48 AM  
To: [autry.lara@epamail.epa.gov](mailto:autry.lara@epamail.epa.gov)  
Cc: Dean J. Smith  
Subject: Re: Lem Walker - Gulf oil in water analysis - OSS offering volunteer services to EPA

Hi Lara,

We have been on the ground here in the Gulf sampling and analyzing samples from Cypremort to East Cote Blanche Cove to Cocodrie and Grand Ilse to Grand Terra Island area. See <http://ossmaine.com/blog/> for our some recent progress.

We know we can help with sampling and quick oil in water analysis - this is technology that EPA has supported! - please direct us to who / where / when!

We met up with Katy Miley in Cocodrie (from EPA REGION VII On-scene Coordinator, Emergency Response and Removal South Branch, cell #:

, miley.katy@epa.gov ). They are doing a lot of sampling ahead of the oil in that area and having to send samples out for analysis (which takes several days!). We volunteered our services and technology and she seemed interested - but did not have the authority to make that call. Maybe you can?

My cell is

Please help us find a way to effectively provide assistance in this disaster! It is so disheartening and people here are very frustrated with response efforts and lack of information.

Sincerely,  
Dean

> Hi Lara,

>

> Great! I look forward to hearing from you and providing assistance in

> any way we can.

>

> Take Care,

> Dean

>

>> Hi Dean!

>>

>> Let me see what I can do. I am working on the spill and have contacts

>> on

>> all sides. They have given me a few days off, however, and I will be

>> out

>> of pocket till later this evening. Will be in touch soon, though.

>>

>> Thank you for getting in touch with me!

>> Lara

>>

>> Sent by EPA Wireless E-Mail Services

>>

>>

>> ----- Original Message -----

>> From: "Dean J. Smith" [dean.smith@ossmaine.com]

>> Sent: 06/08/2010 12:09 PM AST

>> To: Lara Autry

>> Cc: dean.smith@ossmaine.com

>> Subject: Lem Walker - Gulf oil in water analysis - OSS offering

>> volunteer  
>> services to EPA  
>>  
>>  
>>  
>> Hi Lara,  
>>  
>> I have been talking with Lem Walker during the ASTM  
conference and have  
>> filled him in on the fact that our company, Orono Spectral  
Solutions  
>> (OSS), is heading to the Gulf from June 10-June 25 in support of  
clean  
>> up  
>> and analysis. He suggested that I contact you to let you know what  
we  
>> are up to and to see if we can be of assistance to EPA's mission  
to  
>> support the region.  
>>  
>> We are putting our green, solventless oil in water method ASTM  
D7575  
>> (Lem  
>> Walker and Dick Reding helped support and direct the method  
development  
>> -  
>> which is awaiting EPA CFR inclusion) to field use. We are working  
with  
>> Petroleum Laboratories Inc. and have also offered our services to  
LADEQ  
>> and BP but have not had good luck solidifying a role. Lem  
mentioned  
>> that  
>> you may have some direct contacts in the Gulf that we could assist  
in  
>> performing sampling and analyses. Our unique field-portable  
technology  
>> measures oil in water and has the potential to simultaneously  
determine  
>> other chemicals as well (e.g. dispersants). Because of this  
disaster,  
>> not  
>> surprisingly, we have been contacted a lot lately several  
organizations  
>> (commercial labs, government labs, API, POTW, etc.) that view see  
the  
>> benefit of our method. We are offering our services and analyses  
for  
>> free  
>> - and would offer the data we collect to EPA. Can you please



Vice President for Engineering  
OSS - Orono Spectral Solutions  
983 Stillwater Ave., Old Town, ME 04468  
PHONE:  
FAX: 1-866-660-4759  
EMAIL: dean.smith@ossmaine.com  
WEB: [www.ossmaine.com](http://www.ossmaine.com)



{In Archive} Brownfields grants announcement

Carroll, Amy (Collins)

to:

Carolyn Levine

04/07/2008 11:34 AM

Hide Details

From: "Carroll, Amy (Collins)" <Amy\_Carroll@collins.senate.gov>

To: Carolyn Levine/DC/USEPA/US@EPA

History: This message has been forwarded.

Archive: This message is being viewed in an archive.

Carolyn,

I am the environmental LA for Senator Susan Collins, I don't think we've had a chance to meet in person yet.

I've heard from our state offices the EPA will announce some Brownfields funding for Maine today. Could you send me a comprehensive list of all the Maine locations the will be announced today?

I also left you a voicemail about this.

Thanks,

Amy

*Amy Carroll, Ph.D.*

*Office of Senator Susan Collins (R-ME)*

*413 Dirksen Senate Office Building*

*Washington, DC 20510*



RE: Eliot Gravel Pit- Investigation?

Kurtz, Olivia (Collins)

to:

Carolyn Levine

04/13/2012 02:32 PM

Hide Details

From: "Kurtz, Olivia (Collins)" <Olivia\_Kurtz@collins.senate.gov>

To: Carolyn Levine/DC/USEPA/US@EPA

History: This message has been replied to and forwarded.

5 Attachments



image001.gif image002.jpg image003.jpg image004.jpg image005.jpg

Carolyn- I do not think so. Since the town referenced the safety of drinking water in its letter ([http://www.eliotmaine.org/vertical/Sites/%7BBF14CAC6-E3E4-452C-A19F-11FD48C0D8FA%7D/uploads/Notice - Great Hill Gravel Pit 02-27-12.JPG](http://www.eliotmaine.org/vertical/Sites/%7BBF14CAC6-E3E4-452C-A19F-11FD48C0D8FA%7D/uploads/Notice_Great_Hill_Gravel_Pit_02-27-12.JPG)), I assumed that this must be something to do with EPA, but it appears it may be a NOAA issue.

We are still waiting to hear from NOAA. If I learn anything more, I will certainly keep you posted.

Thanks again, Olivia

---

**From:** Carolyn Levine [<mailto:Levine.Carolyn@epamail.epa.gov>]

**Sent:** Friday, April 13, 2012 2:29 PM

**To:** Kurtz, Olivia (Collins)

**Subject:** RE: Eliot Gravel Pit- Investigation?

hi Olivia, thanks for the update. Is there any other information that EPA should be aware of?

---

Carolyn Levine  
U.S. EPA/Office of Congressional Affairs  
(202) 564-1859  
FAX: (202) 501-1550

"Kurtz, Olivia (Collins)" ---04/13/2012 01:51:24 PM---Carolyn, We learned a bit more and have also reached out to NOAA.

From: "Kurtz, Olivia (Collins)" <Olivia\_Kurtz@collins.senate.gov>  
To: Carolyn Levine/DC/USEPA/US@EPA  
Date: 04/13/2012 01:51 PM  
Subject: RE: Eliot Gravel Pit- Investigation?

---

Carolyn,  
We learned a bit more and have also reached out to NOAA.  
Thanks again for looking into this.  
Olivia

**From:** Carolyn Levine [mailto:Levine.Carolyn@epamail.epa.gov]  
**Sent:** Thursday, April 05, 2012 3:40 PM  
**To:** Kurtz, Olivia (Collins)  
**Subject:** Fw: Eliot Gravel Pit- Investigation?

hi Olivia,

I left you a vm message about this inquiry that you sent to Josh Lewis in my office. I checked with various offices, and neither EPA HQ or EPA Region 1 are aware of an investigation in Eliot, Maine. Have you learned any further details on this issue? Please let me know if I can be of further assistance.

-----  
Carolyn Levine  
U.S. EPA/Office of Congressional Affairs  
(202) 564-1859  
FAX: (202) 501-1550

----- Forwarded by Josh Lewis/DC/USEPA/US on 04/03/2012 09:30 AM -----

From: "Kurtz, Olivia (Collins)" <Olivia\_Kurtz@collins.senate.gov>  
To: Josh Lewis/DC/USEPA/US@EPA  
Cc: "Goodwin, Cathy (Collins)" <Cathy\_Goodwin@collins.senate.gov>, "LeDuc, Mark (HSGAC)" <Mark\_LeDuc@collins.senate.gov>, "Cassling, Katherine (Collins)" <Katherine\_Cassling@collins.senate.gov>  
Date: 04/02/2012 04:43 PM  
Subject: Eliot Gravel Pit- Investigation?

---

Josh-

Hope you are well. Please forgive the cold email, but I wanted to inquire about a possible investigation of a gravel pit in Eliot, Maine?

Any information/context that you are able to share would be very helpful.

<http://www.eliotmaine.org/vertical/Sites/%7BBF14CAC6-E3E4-452C-A19F-11FD48C0D8FA%7D/uploads/Notice - Great Hill Gravel Pit 02-27-12.JPG>

Thanks, Olivia

:

Olivia Kurtz  
Office of Senator Susan Collins

Dirksen 413 | Washington, D.C. 20510

Connect with Senator Collins



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rename the file extension to its correct name.

For further information, please contact the EPA Call Center at (866) 411-4EPA (4372). The TDD number is (866) 489-4900.

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can  
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(866) 411-4EPA (4372). The TDD number is (866) 489-4900.

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

NOV 28 2005

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Susan Collins  
Chair  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Madam Chair:

I am transmitting the Environmental Protection Agency's (EPA) response to the Government Accountability Office (GAO) report recommendations on management of the Chesapeake Bay Program and measures used to determine the environmental health of the Chesapeake Bay. The report is entitled Chesapeake Bay Program: Improved Strategies are Needed to Better Assess, Report, and Manage Restoration Progress (GAO-06-96). EPA prepared this response pursuant to 31 U.S.C. 720.

The Chesapeake Bay Program is a unique, regional partnership leading and directing the restoration of the Bay. Formed in 1983, the Program is directed by the Chesapeake Executive Council, comprised of the Governors of Maryland, Pennsylvania and Virginia; the Mayor of the District of Columbia; the Chair of the Chesapeake Bay Commission, a tri-state legislative body; and the EPA Administrator, representing the federal government. EPA's Chesapeake Bay Program Office supports the Council. In addition, the Program Office develops information on the environmental quality of the bay and coordinates EPA activities with other federal agencies, states and local authorities.

The Chesapeake Bay is a national treasure. We are committed to working with our state and other federal partners to accelerate the pace of the restoration effort. In the past year alone, we have added more than 800 miles of pollution-fighting forest buffers along the rivers and streams in the Chesapeake Watershed. The partners also added 75,000 acres to our list of permanently protected lands, bringing the total to 6.7 million acres. In 2005, we began putting into place a new wastewater treatment facility permitting approach that will cut pollution to the Bay by approximately 17 million pounds of nitrogen annually.

### GAO Recommendation

To improve the methods used by the Bay Program to assess progress made on the restoration effort, GAO recommends that the Administrator of EPA instruct the Chesapeake Bay Program Office to complete its plans to develop and implement an integrated approach to assess overall restoration progress. In doing so, the Chesapeake Bay Program Office should ensure that this integrated approach clearly ties to the five broad restoration goals identified in *Chesapeake 2000*.

### EPA Response

EPA concurs with the recommendation. The integrated assessment approach is a key element in the framework for measuring restoration efforts developed by the Program Office. In November 2004, a Bay Program task force began developing a new framework for organizing the Bay Program's restoration measures and the Implementation Committee adopted it in April 2005. The Bay Program plans to release an initial integrated approach on restoration in January 2006 to be followed by an integrated approach on bay health in March 2006.

### GAO Recommendation

To improve the effectiveness and credibility of the Bay Program's reports on the health of the bay, GAO recommends that the Administrator of EPA instruct the Chesapeake Bay Program Office to include an assessment of the key ecological attributes that reflect the bay's current health conditions.

### EPA Response

EPA concurs with the recommendation. As the GAO report indicates, the Bay Program is developing a new set of indicators that clearly identify key ecological attributes that represent the health of the bay. Development of these indicators is based on the Bay Program's decision to develop a framework for assessing the health of the bay that was approved in April 2005. Based on the new indicator data set, the Bay Program will publish the first integrated health assessment of the bay in March 2006.

### GAO Recommendation

To improve the effectiveness and credibility of the Bay Program's reports on the health of the bay, GAO recommends that the Administrator of EPA instruct the Chesapeake Bay Program Office to report separately on the health of the bay and on the progress made in implementing management actions.



### EPA Response

EPA concurs with the recommendation. We have acted on this recommendation and will separate the reporting of the environmental status of the bay and the implementation of management actions.

In the summer of 2005, the Program began publishing *Chesapeake Currents*, a monthly electronic newsletter on current health conditions of the bay, and produced its first-ever annual Summer Forecast that looked exclusively at current and predicted bay health conditions. In addition, the Program will produce a separate report on the environmental health of the bay in March 2006. In January 2006, the Program will report on restoration management actions underway. These ongoing communication initiatives will fulfill the GAO recommendation.

### GAO Recommendation

To improve the effectiveness and credibility of the Bay Program's reports on the health of the bay, GAO recommends that the Administrator of EPA instruct the Chesapeake Bay Program Office to establish an independent and objective reporting process.

### EPA Response

EPA concurs with the recommendation. As GAO reports, the Bay Program makes extensive use of peer review processes to assure the scientific integrity of its work. We are committed to ensure appropriate scientific review of communications products, and the Program will continue these processes as it develops new reporting tools. The new Summer Forecast communications product, for example, was peer reviewed by independent scientists to assure that the methods used for constructing the prediction models were scientifically sound. The Program's Scientific and Technical Advisory Committee will be actively involved in assuring the scientific integrity of the data used in communication products.

### GAO Recommendation

To ensure that the Bay Program is managed and coordinated effectively, GAO recommends that the Administrator of EPA instruct the Chesapeake Bay Program Office to work with Bay Program partners to develop an overall, coordinated implementation strategy that unifies the program's various planning documents.

### EPA Response

EPA concurs with the recommendation. As the report notes, the Bay Program partners adopted 10 "Keystone Commitments" to implement a coordinated strategy of 102 commitments cited in the Chesapeake 2000 agreement. These keystone commitments provide the greatest environmental benefits to the bay and are likely to

have significant collateral benefits to other commitments and will strengthen the coordination of management strategies. In addition, in October 2005, 17 federal agencies formally agreed to use the keystone commitments to effectively integrate and prioritize federal interagency strategic planning for Chesapeake Bay restoration efforts.

#### GAO Recommendation

To ensure that the Bay Program is managed and coordinated effectively, GAO recommends that the Administrator of EPA instruct the Chesapeake Bay Program Office to work with Bay Program partners to establish a means to better target its limited resources to ensure that the most effective and realistic work plans are developed and implemented.

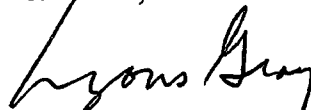
#### EPA Response

EPA concurs with the recommendation. In October 2005, the Bay Program partners approved a funding priorities framework that will focus resources on the most cost-effective actions.

In October 2005, the partners reaffirmed their dedication to Chesapeake Bay restoration as outlined in *Chesapeake 2000* and have agreed to create a "Chesapeake Bay Watershed Assistance Network" that will provide improved access to appropriate funding and technical assistance to accelerate restoration of the Chesapeake Bay and its tidal tributaries. Federal, state and local governments, watershed associations and landowners will participate in the network. All Network participants will share a common understanding of funding priorities that will result in a more efficient use of available resources. In addition, the Network will provide routine reports to members on the status of current and projected resources relative to restoration work plan development.

Thank you for the opportunity to respond to the recommendations. If you have any questions, please contact me or your staff may contact Betsy Henry in EPA's Office of Congressional and Intergovernmental Relations at 202-564-7222.

Best wishes,



Lyons Gray  
Chief Financial Officer



AL-06-000-0033

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 12 2006

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Susan Collins  
Chair  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Madam Chair:

I am transmitting the Environmental Protection Agency's (EPA's) response to the Government Accountability Office (GAO) report recommendations on evaluating and improving the Brownfields Program. The report is entitled Brownfield Redevelopment: Stakeholders Report That EPA's Program Helps to Redevelop Sites, but Additional Measures Could Complement Agency Efforts (GAO-05-94). EPA prepared this response pursuant to 31 U.S.C. 720.

GAO Recommendation

To enhance Federal efforts to cleanup and redevelop brownfield properties, EPA should consider stakeholder suggestions for improving and complementing the Agency's activities as it weighs potential changes to the program. GAO recommends that the Administrator of EPA continue the Agency's efforts to develop additional measures to gauge the achievements of the Brownfields Program, especially those addressing the program's environmental and state voluntary cleanup aspects, and to incorporate this information into annual performance measures that are reported to the Congress.

EPA Response

EPA agrees with this recommendation and will prepare additional measures to accurately describe the program's achievements. Over the next several years, the Agency will review and develop other measures as appropriate; the process will involve the collection, review and analysis of property and grant profiles and the development of baseline information that will enable EPA to establish stronger environmental indicators. Currently the Brownfields Program, in close coordination with states and tribes, is developing additional environmental measures that will focus on the impact on funding of state and tribal voluntary programs. EPA is currently

working on an amended Information Collection Request for the Brownfields property profile form to incorporate State and Tribal reporting on the measures for the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) section 128 grants to bring them into conformance with those already being reported on the CERCLA section 104(k)(2) and (3) grants.

#### GAO Recommendation

To enhance Federal efforts to cleanup and redevelop brownfield properties, EPA should consider stakeholder suggestions for improving and complementing the Agency's activities as it weighs potential changes to the program. GAO recommends that the Administrator of EPA weigh the merits of revising the Brownfields Act to eliminate the provision that prevents pre-January 2002 purchasers of brownfield properties from qualifying for EPA grant funds, and, if the Agency determines that such a change would benefit the Brownfields Program without any significant detrimental effects, develop a legislative proposal to amend the act to incorporate this revision.

#### EPA Response

Congressional action has resulted in a permanent expansion of availability for grants that is recommended above. Section 1956 of the Transportation Equity Act of 2006 amended section 104 of CERCLA, 42 U.S.C. 9601 et seq. to extend availability of grants and loans for use at sites where the owner would meet the definition of a bona fide prospective purchaser except the site was purchased on or before January 11, 2002. Please note that EPA supported similar provisions contained in the Agency's FY 2004, 2005 and 2006 Appropriations Acts.

#### GAO Recommendation

To enhance Federal efforts to cleanup and redevelop brownfield properties, EPA should consider stakeholder suggestions for improving and complementing the Agency's activities as it weighs potential changes to the program. GAO recommends that the Administrator of EPA closely monitor the brownfield revolving loan fund grants to determine why they have been underutilized and what, if any, changes are needed to facilitate or encourage grant recipients' use of these funds.

#### EPA Response

EPA agrees with this recommendation and will assure the expanded use of available funding in a two-step process involving initial grant and possible subsequent supplemental funding. First, EPA is actively monitoring the Brownfields Cleanup Revolving Loan Fund (BCRLF) grants awarded prior to passage of the Small Business Liability Relief and Brownfields Revitalization Act (SBLRBA). EPA policy is to close out completed or inactive grants or transition them to the authority of the new statute. Second, EPA has requested that BCRLF grant recipients close or transition to new statutory authority that permits additional uses of RLF award.

### GAO Recommendation

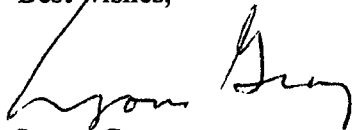
To enhance Federal efforts to cleanup and redevelop brownfield properties, EPA should consider stakeholder suggestions for improving and complementing the Agency's activities as it weighs potential changes to the program. GAO recommends that the Administrator of the EPA determine the advantages and disadvantages of giving priority to coalitions or other entities with proven revolving loan fund administrative expertise when awarding grants and, if found to be beneficial, adopt this as a key criterion for selecting grant recipients.

### EPA Response

EPA agrees with this recommendation and has acted on it. To award grants to applicants with proven appropriate administrative experience, EPA adjusted the ranking criteria to emphasize a demonstrated ability to manage revolving loan funds. In September 2004, EPA provided Congress with information on this change and the new guidelines were in effect for the FY 2005 competition (and will be for the FY2006 competition as well). EPA recognizes the value of coalitions' collective efficiency and administrative expertise and EPA has encouraged coalitions to submit grant proposals for consideration.

Thank you for the opportunity to respond to the GAO recommendations. If you have any questions, please contact me or your staff may contact Josh Lewis in EPA's Office of Congressional and Intergovernmental Relations at 202-564-2095.

Best wishes,

A handwritten signature in black ink, appearing to read 'Lyons Gray', written over a horizontal line.

Lyons Gray  
Chief Financial Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 26 2005

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Susan Collins  
Chair  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Madam Chair:

I am transmitting the Environmental Protection Agency's (EPA) response to the Government Accountability Office (GAO) report recommendations concerning the views of officials from state and local agencies and industry, environmental and health groups on revisions to the Clean Air Act's New Source Review (NSR) Program. The report is entitled Clean Air Act: Key Stakeholders' Views on Revisions to the New Source Review Program (GAO-04-274). EPA prepared this response pursuant to 31 U.S.C. 720.

We appreciate the stakeholders' opinions expressed in the report and GAO's effort to describe the results as opinions, as EPA recommended in reply to the previously-issued draft report. The response letter is reprinted on pages 41-45 of the final report.

GAO Recommendation

To ensure that state and local air quality agencies are adequately equipped to implement the new NSR rules, as required by EPA, and that the rules do not have unintended effects on emissions and public health, GAO recommends that the EPA Administrator provide state and local air quality agencies with assistance in implementing the December 2002 rule.

EPA Response

We agree with the recommendation. EPA will provide assistance to states in implementing its rules and have already been actively engaged with state and local agencies to provide such assistance. For example, we have conducted four training sessions across the country for state agencies on the new NSR rules. We also provided additional training at a

conference sponsored by a professional association for state and local agency officials, and have held conference calls to provide further training. EPA regions have made presentations or held meetings with all levels of management at the agencies they serve, and will continue to provide support by responding to questions as they arise. We believe this assistance is an important step in implementing the rules. Our experience suggests that we are providing an appropriate level of assistance at this time. However, we will continue to engage in active dialogue with these agencies to assure they are receiving adequate support.

#### GAO Recommendation

To ensure that state and local air quality agencies are adequately equipped to implement the new NSR rules, as required by EPA, and that the rules do not have unintended effects on emissions and public health, GAO recommends the EPA Administrator, pending the court's decision on the equipment replacement rule, work with state and local air quality agencies to identify the data that the Agency would need to monitor the effects of this rule and use the monitoring results to identify necessary changes.

#### EPA Response

EPA agrees that it is important to monitor the effects of rules as a normal part of our oversight responsibility under the Clean Air Act. We intend to work with states to fulfill this responsibility on an ongoing basis to assure that the NSR program is continuing to achieve its purpose. GAO is correct to recognize that monitoring the Equipment Replacement Provision (ERP) rule cannot occur until the rule goes into effect, which is currently uncertain due to the fact that it is subject to litigation and has been stayed by Federal court order. Furthermore, there is a separate, independent assessment of the ERP rule underway by the National Academy of Sciences (NAS). In addition to our own analysis of this rule, which was published when the ERP rule was finalized, we will carefully review the NAS analysis to determine whether it presents opportunities to sharpen our data collection and review efforts as the rule is implemented.

#### GAO Recommendation

To ensure that state and local air quality agencies are adequately equipped to implement the new NSR rules, as required by EPA, and the rules do not have unintended effects on emissions and public health, GAO recommends the EPA Administrator consider the state and stakeholder concerns about emissions and workload impacts that GAO identified before deciding whether to issue a final rule on the second proposed exclusion, the annual maintenance allowance exclusion.

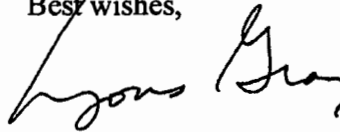
#### EPA Response

EPA has not announced plans to act on any of the other elements of our December 2002 proposal. However, should EPA eventually decide to make additional rule changes, we will do so through notice-and-comment rulemaking, during which interested parties can raise any issue related to the proposal, including emissions and workload impacts. In addition, if we take further

action, we will include GAO's report in the rulemaking record and will consider all comments before taking final action.

We appreciate the opportunity to respond to these important recommendations. If you have any questions, please contact me or your staff may contact Peter Pagano in EPA's Office of Congressional and Intergovernmental Relations at 202-564-3678.

Best wishes,

A handwritten signature in black ink, appearing to read "Lyons Gray". The signature is fluid and cursive, with the first name "Lyons" and the last name "Gray" clearly distinguishable.

Lyons Gray  
Chief Financial Officer





UNITED STATES SENATOR • MAINE  
**SUSAN COLLINS**  
FAX COVER SHEET



TO: Michael Ochs

OFFICE: \_\_\_\_\_

FAX NO: 617 918 0066

FROM: Andrea Weiskopf

PHONE: (202) 228-3229

DATE: 1/26/06

PAGES (including this cover sheet): 4

NOTE: Re: Sixle

Thank you!

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**Container & Packaging Initial Concept Design  
Selection versus Rejection:**

Based on a grade scale of 1-10, with '1' being the highest mark and '10' being the lowest mark.

**Standards:**

Container & Packaging that is made of biodegradable and renewable resources such as paper, wood, and wood fiber will be given the highest marks and first priority.

Container & Packaging that is designed to use non-biodegradable and non-renewable, finite resources, such as crude oil and plastics, will receive the lowest marks.

Container & Packaging that is designed to be reused a minimum of 25 times, with consumer incentives to reuse will receive medium to high marks.

A mark of 3 or lower will be rejected.

Multiple material C&P's, such as juice cartons, will not be considered.

This bill will have the effect of reducing solid waste from the front end of a containers' life cycle. Most recycling efforts for containers & packaging have, over the past 60 years, addressed the problem from an end of pipe approach. That is, the container & packaging (c&p) industry manufactures whatever products it wishes without any accountability to the 3 r's (reduction, reuses, recyclability). The familiar bottle bills in eleven states fairly successfully absorbs solid waste by recycling PET plastic, and remelting crushed aluminum cans. Still, little forethought goes into how to make these beverage containers more recyclable/reusable.

This bill would require the c&p industry to think through how their products will be reused or recycled. Initially this bill would address household, domestic, consumer c&p solid waste. At a later date commercial solid waste could be incorporated.

I envision a team of analysts applying the 3 r's to every existing and new c&p design concept. Much like the FDA analyzes each new drug before going on the market, similarly the office of Solid Waste would inspect each new container design concept.

I see a two pronged approach to this inspection/approval process, a team of analysts reviewing and filing all existing c & p's, while simultaneously a team of analysts reviewing all new c&p for compliance, thus not slowing down commerce. The c&p industry will have to incorporate lead time into it's designs to allow for the inspection process.

With the bill passed, knowing that this step will be necessary, the bill will have the effect of motivating the c&p industry to comply with the 3r's, thus making the analyst's job easier.

Again, all c&p proposals will come before review personnel with goal of incorporating the 3r's into c&p's. If it becomes apparent that it is not feasible to reuse a container, at least it will be constructed out of a material that when burned in the incineration process it will not emit toxins into the atmosphere. For instance, paper when burned, emits fewer toxins than petroleum based products such as plastic. Paper is also biodegradable in the event the container goes to a landfill.

June 21, 2005

Senator Susan Collins  
United States Senate  
P.O. Box 655  
Bangor, Maine 04402

Representative Tom Allen  
United States House of Representatives  
234 Oxford St.  
Portland, Maine 04101

RE: National Domestic Container & Packaging Producer Responsibility Act of 2005

Dear Senator Collins and Representative Allen:

I am writing to ask for your sponsorship of the following proposal for a bill in the Senate and the House. On May 27, 2005, I shared this letter with Senator Snowe and Representative Michaud.

"To include all existing and new containers & packaging. Will require that all existing and new initial design concepts for containers & packaging to meet a set of standards (See attached) for reduction, reuse, and recyclability. The concepts will be monitored by the U.S. EPA's Office of Solid Waste. This bill will carry with it enforcement authority."

It is my understanding that the Office of Solid Waste in the U.S. EPA currently has statutory authority to regulate domestic solid waste. (See attached).

Thank you for your time and consideration.

Sincerely,

Enc.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C. 20460

**MAR 10 2006**

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

Mr.

Dear Mr. :

Thank you for your inquiry to Senator Susan Collins concerning a proposed National Domestic Container and Packaging Producer Responsibility Act of 2005. Senator Collins asked me to respond to you directly.

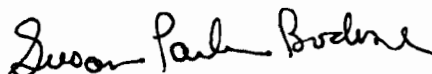
We appreciate your interest in the important issue of environmentally minded container and packaging design. Your proposal of a rating system based on reduction, reuse, and recyclability is consistent with current thinking on environmental standard-setting. Such a system reflects consideration of a variety of environmental attributes, along with price and performance, that are competitive with other products and services in the market.

We agree that design-stage planning is fundamental to reducing the environmental impacts of containers and packaging, which is why we are an active member of the Sustainable Packaging Coalition. The Coalition is developing sustainable package design criteria and a material selection tool. We believe that such public/private collaborations are an appropriate means of setting standards, such as the ones proposed in your letter.

The Environmental Protection Agency takes no position on your proposed bill. The Agency generally supports these types of efforts as voluntary initiatives and programs. For example, we worked with the U.S. Green Building Council on the building rating system called Leadership in Energy and Environmental Design. We also supported development and implementation of the Environmental Product Electronic Assessment Tool, which evaluates overall the environmental performance of electronic products throughout their life cycle.

Thank you again for sharing your views on the importance of improved container and packaging design.

Sincerely,

A handwritten signature in cursive script, reading "Susan Parker Bodine".

Susan Parker Bodine  
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 07 2006

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Susan Collins  
Chair  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Madam Chair:

I am transmitting the Environmental Protection Agency's (EPA) response to the Government Accountability Office's (GAO) report recommendation on the environmental effects and cost of special gasoline blends. The report is entitled Gasoline Markets: Special Gasoline Blends Reduce Emissions and Improve Air Quality, but Complicate Supply and Contribute to Higher Prices (GAO-05-421). EPA prepared this response pursuant to 31 U.S.C. 720.

GAO Recommendation

GAO recommends that the EPA Administrator direct the Agency to take the following four actions:

1. Work with states and other stakeholders to comprehensively analyze how various gasoline blends affect the emissions of vehicles that comprise today's fleet, including how overall emissions are affected by the use of ethanol and other oxygenates;
2. Use this updated information to revise the emissions models that states use to estimate the emissions and air quality benefits of these fuels and provide this information to Congress;
3. Work with states, the Department of Energy (DOE), and other stakeholders to develop a plan to balance the environmental benefits of using special gasoline blends with the impacts on gasoline supply infrastructure and prices, and report the results of this effort to Congress; and
4. Work with the states, DOE, and any other appropriate federal agencies to identify what statutory or other changes are needed to achieve this balance and report these findings to the appropriate federal agency or agencies.

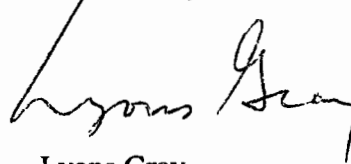
### EPA Response

EPA generally agrees with the recommendation as it is consistent with the findings of the Office of Air and Radiation's 2001 Staff White Paper, "Study of Unique Gasoline Fuel Blends ("Boutique Fuels"), Effects on Fuel Supply and Distribution and Potential Improvements". The White Paper was written in response to a directive in the President's National Energy Policy Report issued May 17, 2001.

The Energy Policy Act of 2005 signed by the President on August 8, 2005, provides authorities necessary to undertake additional meaningful steps to address the issues cited in the GAO recommendation. The Act addresses boutique fuels in several sections. Section 1541 (b) requires EPA to publish a boutique fuels list based on fuels in the market as of September 1, 2004. The Administrator approved the list June 1, 2006 and it was published in the Federal Register June 6, 2006. Section 1541 (c) requires EPA and DOE to develop a study on the effects of boutique fuels effects on air quality, fuel blends, fuel availability, fungibility and costs, and a federal fuels system that maximizes fungibility, supply and addresses price volatility and air quality concerns. EPA and DOE plan to issue a joint report to Congress in August 2006. Further, Section 1509 requires EPA to prepare a report by June 1, 2008, concerning variations in regional, state and local motor vehicle fuel requirements. The report will likely build off the 2001 report, accounting for recent and anticipated changes in the U.S. gasoline and fuels market. We will consult with Congressional committees as our planning effort moves forward.

Thank you for the opportunity to respond to the recommendation. If you have any questions, please contact me or your staff may contact Lauren M. Mical in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2963.

Best wishes,

A handwritten signature in black ink, appearing to read "Lyons Gray", written in a cursive style.

Lyons Gray  
Chief Financial Officer





AL-06-001-4118

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 20 2006

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Susan Collins  
Chair  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Madam Chair:

I am transmitting the Environmental Protection Agency's (EPA) response to the Government Accountability Office (GAO) report recommendation concerning the effects of storm water discharge permits for oil and gas construction activities. The report is entitled Storm Water Pollution: Information Needed on the Implications of Permitting Oil and Gas Construction Activities (GAO-05-240). EPA prepared this response pursuant to 31 U.S.C. 720.

GAO Recommendation

So that EPA may fully understand the implications of Phase II of its storm water rule prior to deciding whether the oil and gas industry should be subject to it, GAO recommends that EPA complete its Phase II analysis before making any final decision. Furthermore, as a part of this analysis, GAO recommends that EPA assess

- the number of oil and gas sites impacted by the Phase II rule;
- the costs to industry of compliance with the rule and whether these costs are solely attributable to the storm water rule; and
- the environmental implications and benefits of the storm water rule, including, but not limited to, potential benefits for endangered species.

EPA Response

Under EPA's Phase II regulations, the Agency considered storm water discharges from oil and gas related construction activity to be outside the scope of "oil and gas exploration, production, processing ..." exclusion, and therefore required permit coverage. However, with the addition of construction to the list of activities for which permit coverage may be unnecessary, it may no longer be appropriate for EPA to fulfill the recommendation.

On August 8, 2005, President Bush signed into law the Energy Policy Act of 2005. The Energy Policy Act modified section 502 of the Clean Water Act by defining the term "oil and gas exploration, production, processing or treatment operations, or transmission facilities." The new definition includes "activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations may be considered to be construction activities."

In response to the Energy Policy Act, on June 12, 2006, EPA issued an amendment that addresses the changes to section 502 of the Clean Water Act. The amendment is entitled *Amendments to the National Pollutant Discharge Elimination System (NPDES) Regulations for Storm Water Discharges Associated With Oil and Gas Exploration, Production, Processing, or Treatment Operations or Transmission Facilities*. The full text of the amendment is available at: <http://www.epa.gov/fedrgstr/EPA-WATER/2006/June/Day-12/w9079.htm>

Thank you for the opportunity to respond to the recommendation. If you have any questions, please contact me or have your staff contact Lauren Mical in EPA's Office of Congressional and Intergovernmental Relations at 202-564-2963.

Best wishes,

A handwritten signature in cursive script, appearing to read "Lyons Gray".

Lyons Gray  
Chief Financial Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 20 2006

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Susan Collins  
Chair  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Madam Chair:

I am transmitting the Environmental Protection Agency's (EPA) response to the Government Accountability Office's (GAO) report recommendations on economic analyses used for determining mercury (Hg) control options. The report is entitled Clean Air Act: Observations on EPA's Cost-Benefit Analysis of Its Mercury Control Options (GAO-05-252). EPA prepared this response pursuant to 31 U.S.C. 720.

GAO Recommendation

GAO recommends that the Administrator analyze and fully document the economic effects of each policy option by itself, as well as in combination with the interstate rule, over their full implementation periods.

EPA Response

We agree with the recommendation to analyze and fully document the economic effects of each policy option considered by the Agency. As part of this effort, it is necessary to develop an appropriate baseline against which to compare the policy options. In the case of the Clean Air Mercury Rule (CAMR), we decided that it was appropriate to analyze the policy options using a baseline that contained the Clean Air Interstate Rule (CAIR). It was appropriate to consider CAIR in the baseline for several reasons. First, the two rules are designed to work together to accomplish the overall emissions reductions from the utility sector. The multipollutant approach of CAIR and CAMR provide public health benefits by focusing first on reducing SO<sub>2</sub> and NO<sub>x</sub> while providing strong incentives for the further development and installation of mercury-specific technologies starting in 2010, well in advance of the Phase 2 2018 cap. We expect that this approach will lead to the development of less costly technologies for reducing Hg emissions from this sector.

Second, we generally include any final Federal and State regulations and laws in our baseline. CAIR is a final rule and thus, was included in the baseline. Third, it makes more policy sense to first require reductions in SO<sub>2</sub> and NO<sub>x</sub> and then require reductions in Hg in part because the technologies for controlling SO<sub>2</sub> and NO<sub>x</sub> are known to reduce Hg emissions while several of the mercury-specific technologies being developed and tested do not currently show appreciable reductions in SO<sub>2</sub> and NO<sub>x</sub>.

The Agency has analyzed several policy options/alternatives considered in the final rulemaking. These policy options include CAIR alone, the CAMR as finalized with a first phase cap set at 38 tons in 2010 and a second phase cap set at 15 tons in 2018, two options involving moving up the date of the second phase cap, and a hypothetical bounding case of zeroing out all mercury emissions from power plants. These options are detailed in the final Regulatory Impact Analysis (RIA) and other supporting documents to the CAMR and are located in the appropriate Office of Air and Radiation (OAR) docket.

#### GAO Recommendation

GAO recommends that the EPA Administrator ensure that the Agency documents its analysis supporting the final rule and consistently analyzes the effect that different levels of Hg control would have on cost-and-benefit estimates under each policy option.

#### EPA Response

The documentation for the analysis supporting the final rule is contained in the appropriate OAR docket. This analysis includes a consistent discussion and, where possible, a quantification of the benefits and costs of each policy option considered.

For its cost-and-benefit analysis, EPA has assumed that States implement those reductions through a national cap-and-trade program. This analysis also assumes that utility units will also comply with CAIR requirements through a national cap-and-trade program. For Hg cost analysis, EPA examined three Hg control options, all implemented in multiple phases. These options included the final rule option of a 38 ton cap in 2010 followed by 15 ton in 2018; option 2 of a 38 ton cap in 2010 followed by a 15 ton cap in 2015; and option 3 of a 38 ton cap in 2010, a 24 ton cap in 2015, and 15 ton cap in 2018. For the Hg benefits analysis, EPA examined the final rule option and option 2, since they represented the range of Hg emissions reductions achieved in 2020 for the three options.

As discussed in the final rule preamble, EPA believes that its two phased approach for reducing Hg emissions from power plants is justified from a technology availability basis and a cost basis. EPA believes that a carefully designed “multi-pollutant” approach, a program designed to control NO<sub>x</sub>, SO<sub>2</sub>, and Hg at the same time (i.e., CAIR implemented with CAMR), is the most effective way to reduce emissions from the power sector.

EPA has determined that Hg-specific controls have been adequately demonstrated as being effective in substantially reducing Hg emissions, but that such controls are not currently available for commercial application on a broad scale and, therefore, cannot serve as the basis for the 2010 Hg emissions cap. EPA believes, however, based on currently available information (Office of Research and Development [ORD] revised white paper "Control of Mercury Emissions from Coal Fired Electric Utility Boilers: An Update," and the Department of Energy [DOE] white paper "Mercury Control Technologies"), that such controls will be commercially available sometime after 2010 and can be installed and operational on a nationwide basis by 2018. EPA has, therefore, set the level of the 2010 cap on Hg emissions on the basis of the reductions in Hg emissions achievable as co-benefits of efforts to reduce emissions of SO<sub>2</sub> and NO<sub>x</sub> in accordance with CAIR and, established a Phase 2 Hg emissions cap in 2018 based on the Hg emissions reductions that will be achievable by the combined use of co-benefit (CAIR) and Hg-specific controls.

The 15-ton cap in 2018 is supported by cost modeling that shows that the 15-ton Phase 2 cap will, in fact, require Hg-specific controls to be installed on certain utility units; however, such controls should not have any significant impact on power availability, reliability, or pricing to consumers. Moreover, our modeling projects that a 15-ton cap would not cause any significant shift in the fuels currently utilized by power plants or in the source of these fuels.

#### GAO Recommendation

GAO recommends that the EPA Administrator include monetary estimates, where possible, of the human health benefits of reductions in Hg emissions from power plants or, at a minimum, provide qualitative information on how these benefits are likely to compare under the two options over a consistent time frame, reflecting full implementation of both options.

#### EPA Response

The final RIA includes monetary estimates, where possible, of the human health benefits of reducing Hg emissions from power plants. EPA's analyses supporting the CAMR represent Agency experts' best effort to evaluate the science, develop causal relationships, and estimate the benefits of the rule. Based upon our current understanding of the science, reductions in deposition of Hg emissions from power plants may reduce exposure to consumers of fish from freshwater ecosystems and we can approximate that response by assuming a linear relationship between deposition and methylmercury in freshwater fish. As such, our analyses to support the CAMR quantify the neurological health benefits to children as a result of this rule based on reduced *in utero* exposure to Hg from freshwater, recreationally-caught fish. EPA considered all potential benefits, even those we concluded could not or should not be quantified (e.g. effects for which the weight of evidence is not as strong as it is for childhood neurological effects).

---

## GAO Recommendation

GAO recommends that the EPA Administrator further analyze uncertainties surrounding estimates of costs and benefits, as directed by OMB guidance, and evaluate how these uncertainties could affect overall estimates of the rule's impacts.

## EPA Response

EPA's cost modeling is based on its best judgment for various input assumptions that are uncertain, particularly assumptions for Hg control technologies and future fuel prices and electricity demand growth. To some degree, EPA addressed some of the uncertainty surrounding these three assumptions through its sensitivity analysis. A cost sensitivity analysis was performed using projections of natural gas prices and coal prices and electricity growth from the 2004 Annual Energy Outlook produced by the Energy Information Administration (EIA). This sensitivity analysis on fuel prices and demand growth did not project significant changes in the impacts of the final rule Hg policy.

A second cost sensitivity analysis examined the impacts of possible improvements in Hg control costs over time. In particular, the sensitivity analysis examined the costs of the rule by running IPM (Integrated Planning Model, EPA's economic modeling tool) employing the assumption that advanced sorbents (i.e., materials on which a compound, in this case Hg, becomes attached) would be available in 2013. This provided a lower estimate of costs than the primary analysis, which did not assume that advanced sorbents would be available.

For the purposes of its benefits analysis, EPA provided estimates of some of the direct health benefits of reducing Hg as well as the indirect health benefits of reducing particulate matter (PM). The indirect PM health benefits result from controls installed to reduce Hg, which concurrently reduce PM and PM precursors. We used the best available science to develop these estimates, and where data exists, we estimated the influence of changing some inputs on the benefits results.

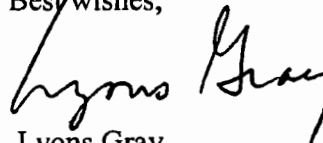
We note at the outset that EPA rarely has the time or resources to perform extensive new research to measure either the health outcomes or their values for this analysis. Thus, similar to Kunzli et al. (2000) and other recent health impact analyses, our estimates are based on the best available methods of benefits transfer. Benefits transfer is the science and art of adapting primary research from similar contexts to obtain the most accurate measure of benefits for the environmental quality change under analysis. Adjustments are made for the level of environmental quality change, the sociodemographic and economic characteristics of the affected population, and other factors to improve the accuracy and robustness of benefits estimates.

There is a richer set of data and information on the health impacts of reducing PM than exists on the health impacts of reducing Hg. Therefore, our analysis presents a broader characterization of the influence of the differing assumptions about the health effects of reducing PM. However, even in the case of reducing Hg levels our analysis

was able to present the monetary implications of changes in some of the key assumptions for the Hg benefits analysis. To the extent we believe that there is adequate data to support the characterization of any uncertainties in our estimates, we strive to carry out the analysis to show the influence of these uncertainties. The analyses are fully documented in the CAMR RIA and its appendices which are available to the public in the appropriate OAR docket for the rulemaking.

Thank you for the opportunity to respond to the recommendations. If you have any questions, please contact me or have your staff contact Lauren Mical in EPA's Office of Congressional and Intergovernmental Relations at 202-564-2963.

Best wishes,

A handwritten signature in black ink, appearing to read "Lyons Gray". The signature is fluid and cursive, with the first name "Lyons" and last name "Gray" clearly distinguishable.

Lyons Gray  
Chief Financial Officer

SUSAN M. COLLINS  
MAINE

481 DIRKSEN SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-1904  
(202) 224-2623  
(202) 224-2693 (FAX)

COMMITTEES  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS, CHAIRMAN  
ARMED SERVICES  
SPECIAL COMMITTEE  
ON AGING

United States Senate  
WASHINGTON, DC 20510-1904

August 25, 2006

Ms. Stephanie N. Daigle  
Associate Administrator for  
Congressional and Intergovernmental Relations  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW, Room 3426 ARN  
Washington, DC 20460

Dear Ms. Daigle:

I was recently contacted by *gk* a constituent from Maine, who is concerned about the ability of states to grant variances from the Safe Drinking Water Act for small drinking water systems. He is particularly concerned that such variances could create a two-tiered system, in which some communities will not be able to afford clean water. I would appreciate if you would respond to Mr. *gk* concerns. Please send your response to the attention of Shaw Sprague in my Washington office.

Thank you in advance for your attention to this matter.

Sincerely,

*Susan*  
Susan M. Collins  
United States Senator

SMC:ss  
Enclosure



## Snapshot Report: Incoming Constituent Message

Report Date: 6/8/2006

Staff:  
Address To: General  
Name: Mr.  
Address:  
Portland ME 04101  
Email: autumnlord@excite.com

USA

URL:

0161752  
enclenex  
6/8/06

Shaw

Home Phone:

Cell Phone:

Work Phone:

Fax:

Salutation: Dear Mr

In Type: EML

Interest:

Organization:

Classification:

Personal:

Workflow:

Reference #:

Polling:

Reply Ltr:

Letter:

Title:

Group:

Message Body:

Date Received: 6/5/2006 8:25:35 PM

Dear Senator Collins,

I urge you to withdraw the Environmental Protection Agency's notice on small drinking water system variances, Docket ID No. OW-2005-0005. The methodology will create a two-tiered system whereby those who can afford it can get clean drinking water from their tap while those communities that struggle to afford the investments to keep their water clean will be left to drink water contaminated with up to three or more times the level of toxic chemicals normally allowed by the EPA drinking water standard. This is unacceptable.

The federal government must do all it can to protect the nation's drinking water quality and aid water affordability while not undermining our health. EPA's own expert panel on affordability has made several constructive recommendations for assuring that water is safe and affordable for all Americans, yet the agency has all but ignored these recommendations. The federal government has an obligation to support all communities in meeting strong federal drinking water standards and ensuring our high drinking water quality now and in the future.

Sincerely,

Portland, ME 04101



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 06 2006

OFFICE OF  
WATER

The Honorable Susan Collins  
Attn: Shawn Sprague  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

Thank you for your letter of August 25, 2006, to Stephanie Daigle, in which you conveyed the concerns of your constituent, Mr. \_\_\_\_\_, on the Environmental Protection Agency's (EPA) proposal to revise its methodology for small system variances. EPA's proposal - *Small Drinking Water Systems Variances - Revision of Existing National-Level Affordability Methodology and Methodology to Identify Variance Technologies that are Protective of Public Health* - was published in the *Federal Register* on March 2, 2006. The Agency received several thousand comments and is currently reviewing them in order to develop the final policy.

EPA works extensively with its state co-regulators to develop and implement strategies to assist systems in achieving compliance with drinking water standards. This includes the use of the Drinking Water State Revolving Loan Funds to provide financial assistance (particularly to systems serving economically distressed communities) and technical assistance to help systems identify the most cost effective means of complying with drinking water standards. While we believe that technical and financial assistance along with existing regulatory flexibility will provide most small systems with the tools they need to protect public health, EPA is also committed to working to improve the affordability analyses under the Safe Drinking Water Act to address those systems that remain challenged.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Steven Kinberg, in EPA's Office of Congressional and Intergovernmental Relations, at 564-5037.

Sincerely,

A handwritten signature in black ink, appearing to read "B. H. Grumbles", is written over the typed name.

Benjamin H. Grumbles  
Assistant Administrator

SUSAN M. COLLINS  
MAINE

413 DIRKSEN F  
WASHINGTON, DC 20510-1904  
(2) 224-2623  
(224-2683 (FAX)

COMMITTEES.  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
RANKING MEMBER  
ARMED SERVICES  
SPECIAL COMMITTEE  
ON AGING

# United States Senate

WASHINGTON, DC 20510-1904

June 15, 2007

Mr. Peter Brandt  
Acting Principal Deputy Associate Administrator  
Environmental Protection Agency  
Office of Congressional Relations & Intergovernmental Affairs  
1200 Pennsylvania Avenue, NW  
Mail Code 1301A  
Washington, D.C. 20460

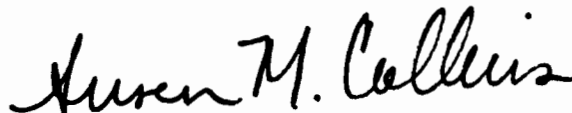
Dear Mr. Brandt:

I recently received an e-mail message from my constituent, Mrs. N. Christie Lacasse, of Brewer, Maine, regarding the effects of liquid propane (LP) gas on the environment. Enclosed is a copy of her message for your review.

Mrs. Lacasse is concerned that during the filling of LP gas tanks, some of the gas is released into the air and may have potentially damaging effects on the atmosphere. I would appreciate it if you would look into this matter and respond to Mrs. Lacasse's concerns.

Thank you for your attention to this matter.

Sincerely,



Susan M. Collins  
United States Senator

SMC:ej

## Snapshot Report: Incoming Constituent Message

Report Date: 5/11/2007

Staff:  
Address To: General  
Name: Mrs. N. Chrisite Lacasse  
Address: PO BOX 568 Brewer ME 04412 USA  
Email: ChristieLaCasse@roadrunner.com  
Home Phone: Cell Phone:  
Work Phone: Fax:  
Salutation: Dear Mrs. Lacasse: In Type: EML  
Interest: Organization:  
Classification: Personal:  
Workflow: Reference #:

URL:

Polling:  
Reply Ltr:  
Letter:  
Title:  
Group:

A448  
5/11/07  
Sheddenex  
aentl  
(18)

### Message Body:

Date Received: 5/7/2007 3:20:12 PM

Dear Representative Collins,

Has a study been done about the effect wasted liquid propane (LP) gas has on the atmosphere?

When an LP tank is filled, gas is wasted into the atmosphere. I was standing on the opposite side of my 20 foot wide, one and a half story garage while my LP tank was being filled, and the smell was enough to gag me.

I think that wasting this gas into the atmosphere cannot be good for environment, and that it shouldn't be very difficult to create a way to recover it. Also, with the price of LP gas, the consumer could have the recovered gas deducted from the bill, which would be a nice plus.

Sincerely,

Chris LaCasse



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 24 2007

OFFICE OF  
AIR AND RADIATION

The Honorable Susan M. Collins  
United States Senate  
Washington, D.C. 20510-1904

Dear Senator Collins:

Thank you for your letter dated June 15, 2007, concerning a request from one of your constituents, Mrs. N. Christie Lacasse, regarding the possible effects of liquid propane gas (LP-gas) on the environment. Mrs. Lacasse was concerned that during the filling of LP-gas tanks, some of the gas may be released to the environment and have a potentially damaging impact on the atmosphere.

My staff has reviewed the possible impacts of these types of releases of propane on the environment. Propane is an odorless gas which is considered to be non-toxic and to contribute very little toward the formation of ozone or other urban pollution. Additionally, the amounts released during the filling process are actually quite small, such that the installation of recovery devices on older tanks is not necessary. The main hazard associated with such releases of propane is their flammability. The odor reported by Mrs. Lacasse is a result of a substance (called an odorant) which is actually added to the LP-gas to aid in its detection by the human nose so that people can notice it and avoid potentially explosive conditions. Rather than be concerned about any potential health effects associated with the odor or any adverse impacts on the atmosphere from such releases, detection of this odor should serve as a warning to avoid igniting any flames and consider providing additional ventilation to prevent a potentially flammable situation.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Diann Frantz, in EPA's Office of Congressional and Intergovernmental Relations, at 202-564-3668.

Sincerely,

A handwritten signature in black ink, which appears to read "Robert J. Meyers", is written over a horizontal line.

Robert J. Meyers  
Principal Deputy Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

NOV 21 2008

THE ADMINISTRATOR

The Honorable Susan M. Collins  
Ranking Member  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

I am pleased to submit the Agency's 2006 summary of activities with respect to the processing of complaints of discrimination by employees, former employees and applicants for employment. This report is submitted for your information and consideration pursuant to Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174. The 2006 report captures data for the reporting period of October 1, 2005 through September 20, 2006.

If you, or your staff, have any questions, please contact Clara Jones in EPA's Office of Congressional and Intergovernmental Affairs at (202) 564-3701.

Sincerely,

A handwritten signature in black ink, which appears to read "S. L. Johnson", is written over a large, faint, stylized "E" watermark.

Stephen L. Johnson

Enclosure



OFFICE OF CIVIL RIGHTS

**U.S ENVIRONMENTAL  
PROTECTION AGENCY**

**Fiscal Year 2006**

**Annual Report to Congress  
on the  
Notification and Federal Employee  
Antidiscrimination and Retaliation  
Act of 2002**

## **TABLE OF CONTENTS**

<b>I. Executive Summary .....</b>	<b>1</b>
<b>II. Background.....</b>	<b>1</b>
<b>III. Data.....</b>	<b>3</b>
<b>IV. Analysis of Trends, Causal Analysis and Practical Knowledge Gained Through Experience.....</b>	<b>5</b>
<b>V. Adjustment to Budget.....</b>	<b>6</b>
<b>VI. Actions Planned or Taken to Improve Complaint or Civil Rights Programs.....</b>	<b>6</b>
 <b>APPENDIX 1</b>	
<b>No Fear 2006 Fiscal Year Totals .....</b>	<b>10</b>
 <b>APPENDIX 2</b>	
<b>Prevention of Sexual Harassment Policy Statement.....</b>	<b>18</b>
 <b>APPENDIX 3</b>	
<b>Harassment Based on Sexual Orientation Policy Statement.....</b>	<b>19</b>
 <b>APPENDIX 4</b>	
<b>EEO Policy Statement.....</b>	<b>20</b>



## **I. EXECUTIVE SUMMARY**

The U.S. Environmental Protection Agency (EPA or Agency) provides its Annual Report to Congress as required by Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 ("No FEAR Act"), Public Law 107-174. This report includes the number of cases in Federal court pending or resolved in fiscal year (FY) 2006 and, in connection with those cases, their disposition; money required to be reimbursed to the judgment fund; and the number of employees disciplined and the nature of the disciplinary action taken.

During FY 2006, there were a total of 21 cases pending before Federal courts. Among these cases, there were 18 claims of violation of Title VII; 9 claims of violations of the Rehabilitation Act; and 4 claims of violation of the Age Discrimination in Employment Act. Of the 21 cases reported for FY 2006, none were settled during the reporting period; 2 of the cases were dismissed by the courts; 2 were under appeal; and the remainder were proceeding at different stages of the pretrial process. There were no payments to the Judgment Fund resulting from any of the reported cases.

The EPA reports that there were no disciplinary actions taken in connection with any Federal case pending or resolved in FY 2006 under applicable provisions of the Federal Anti-discrimination Laws and Whistleblower Protection Laws or for any conduct that is inconsistent with the Federal Antidiscrimination Laws and Whistleblower Protection Laws or for conduct that constitutes another prohibited personnel practice.

The EPA continues to stress training as a mechanism for reducing the number of Federal court judgments, awards, and reducing the number of discrimination complaints.

## **II. BACKGROUND**

On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," which is now known as the No FEAR Act. One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." Public Law 107-174, Summary. In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination." Public Law 107-174, Title I, General Provisions, section 101(1).

Section 203 of the No FEAR Act requires that each Federal agency submit an annual Report to Congress not later than 180 days after the end of each fiscal

year. Agencies must report on the number of Federal court cases pending or resolved in each fiscal year and arising under each of the respective areas of law specified in the Act in which discrimination or retaliation was alleged. In connection with those cases, agencies must report the status or disposition of the cases; the amount of money required to be reimbursed to the judgment fund; and the number of employees disciplined. Agencies must also report on any policies implemented related to appropriate disciplinary actions against a Federal employee who discriminated against any individual, or committed a prohibited personnel practice; any employees disciplined under such a policy for conduct inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws, and an analysis of the data collected with respect to trends, causal analysis, in addition to other information.

The Act imposes additional duties upon Federal agency employers intended to reinvigorate their longstanding obligation to provide a work environment free of discrimination and retaliation. The additional obligations contained in the No FEAR Act can be broken down into five categories.

- A Federal agency must reimburse the Judgment Fund for payments made to employees, former employees, or applicants for Federal employment because of actual or alleged violations of Federal employment discrimination laws, Federal whistleblower protection laws, and retaliation claims arising from the assertion of rights under those laws.
- An agency must provide annual notice to its employees, former employees, and applicants for Federal employment concerning the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws.
- At least every two years, an agency must provide training to its employees, including managers, regarding the rights and remedies available under the employment discrimination and whistleblower protection laws.
- An agency must post quarterly on its public Web site summary statistical data pertaining to EEO complaints filed with the agency.

The President delegated responsibility to the Office of Personnel Management (OPM) for issuance of regulations governing implementation of Title II of the No FEAR Act. OPM published final regulations on the reimbursement provisions of the Act on May 10, 2006; final regulations to carry-out the notification and training requirements of the Act were published on July 20, 2006; and the final regulations to implement the reporting and best practices provisions of the No FEAR Act on December 28, 2006. The EEOC published its final regulations to

Implement the posting requirements of Title III of the No FEAR Act on August 2, 2006. The EPA has prepared this report based on the provisions of the No FEAR Act, OPM and EEOC's final regulations.

### **III. DATA**

#### **a. Civil Cases**

Section 203(a)(1) of the No FEAR Act requires that agencies include in their Annual Report "the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged." Section 724.302 of OPM's final regulations on reporting and best practices clarifies section 203 (1) of the No FEAR Act stating that agencies report on the "number of cases in Federal Court [district and appellate] pending or resolved...arising under each of the respective provisions of the Federal Antidiscrimination laws and Whistleblower Protection Laws applicable to them...in which an employee, former Federal employee, or applicant alleged a violation(s) of these laws, separating data by the provision(s) of law involved." The data presented below is the best available as of this reporting period. It includes all responsive data that the Agency has been able to identify to date. The Office of Civil Rights (OCR) will continue its' best efforts to identify and post all responsive data in the future.

During FY 2006, there were a total of 21 cases pending before Federal courts. Among these cases, there were 18 claims of violation of Title VII; 9 claims of violations of the Rehabilitation Act; and 4 claims of violation of the Age Discrimination in Employment Act. Of the 21 cases reported for FY 2006, none were settled during the reporting period; 2 of the cases were dismissed by the courts; 2 were under appeal; and the remaining 17 cases were proceeding at different stages of the pre-trial process. There were no payments to the Judgment Fund resulting from any of the reported cases.

#### **b. Reimbursement to the Judgment Fund**

The OPM published final regulations to clarify the agency reimbursement provisions of Title II of the No FEAR Act. These regulations state that the U.S. Department of the Treasury's Financial Management Service (FMS) will provide notice to a Federal agency's Chief Financial Officer within 15 business days after payment from the Judgment Fund. The agency is required to reimburse the Judgment Fund within 45 business days after receiving the notice from FMS or contact them to make arrangements in writing for reimbursement.

The Agency made no reimbursements to the Treasury Judgment Fund for payments made on behalf of EPA for alleged discriminatory or retaliatory conduct, as described.

**c. Disciplinary Actions (5 C.F.R. § 724.302 (a)(3) & (5))**

The Agency reports that there were no employees disciplined in FY 2006 in connection with any cases described in paragraph (a) above, or for any other conduct that is inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws or for conduct that constitutes another prohibited personnel practice.

**d. Final Year-End Data Posted Under Section 301(c)(1)(B)**

The final year-end data posted pursuant to section 301(c)(1)(B) of the No FEAR Act is included in Appendix 2. The final year-end data indicate that during FY 2006, there were 76 administrative complaints of discrimination filed. Among the 76 complaints filed, 21 complaints were dismissed. Among the remaining complaints, there were no findings of discrimination. The FY 2006 complaint totals can be found in its entirety at Appendix 2 of this report.

**e. Policy Description on Disciplinary Actions (5 C.F.R. § 724.302(a)(6))**

Section 203(a)(6) of the No FEAR Act requires that agencies include in their Annual Report to Congress a detailed description of the policy implemented by the agency relating to disciplinary actions imposed against a Federal employee who discriminated against any individual in violation of any of the laws cited under section 201(a)(1) or (2), or committed a prohibited personnel practice that was revealed in the investigation of a complaint alleging a violation of any of the laws cited under section 201(a)(1) or (2). Further, the Act requires that, with respect to each such law, the Federal agency report on the number of employees who were disciplined in accordance with such policy and the specific nature of the disciplinary action taken. OPM's final regulations on Reporting and Best Practices published on December 28, 2006, define discipline as "any one or a combination of the following actions: reprimand, suspension without pay, reduction in grade or pay or removal." OPM expects Federal agencies to report disciplinary action taken whether or not there is a formal finding of discrimination.

EPA's EEO policy continues to demonstrate the Agency's commitment to providing employees with a discrimination free workplace. Further, the Office of Civil Rights' standard operating plan (for the re-dress of allegations of discrimination) provides for a prompt, fair and impartial review, and adjudication of any allegation of discrimination; further demonstrating the Agency's

commitment to equal employment opportunity principles and practices in all of our management decisions and personnel practices.

**f. No FEAR Act Training Plan (5 C.F.R. § 724.302 (a)(9))**

Section 202(c) of the No FEAR Act requires agencies to provide training to their employees on the rights and remedies under Federal antidiscrimination, retaliation, and whistleblower protection laws. Under 5 C.F.R. § 724.203, agencies are required to develop a written plan for training employees on the No FEAR Act.

During FY 2006, the Agency's Office of Civil Rights developed and implemented web based training for all Agency employees concerning the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws. The Office of Civil Rights has developed and scheduled multiple EEO trainings for Managers and Supervisors for FY 2007-2008. The Agency plans to offer the same type of course to all Agency employees in FY 2008-2009. Classroom training will be reinforced by continued, annual web based training required for each employee

**IV. ANALYSIS OF TRENDS, CAUSAL ANALYSIS AND PRACTICAL KNOWLEDGE GAINED THROUGH EXPERIENCE (5 C.F.R. § 724.302 (a)(7))**

Section 203(a)(7) of the No FEAR Act requires that agencies undertake "an examination of trends, causal analysis, practical knowledge gained through experience, and any actions planned or taken to improve complaint or civil rights programs of the agency."

The Agency has seen a 27% decrease in the number of administrative complaints filed and a 33% decrease in the number of complainants since the implementation of the NoFEAR act in 2002. The bases of alleged discrimination most often raised were: (1) Reprisal; (2) Age; and (3) Sex (Female). The 76 administrative complaints filed at EPA contained 21 allegations of race (Black) discrimination, 11 allegations of race (White) discrimination, 4 allegations of race (Asian) discrimination, 1 allegation of race (American Indian/Alaska Native) discrimination, 6 allegations of color discrimination and 33 allegations of disability discrimination. Of the 53 completed investigations, 54.7% were timely. EPA's average time for completing an investigation was 206 days. EPA's average processing time for all complaint closures decreased from 676 days in FY 2005 to 505 days in FY 2006. There was no discernable pattern of allegations sufficient to show a pattern of behavior in any particular region, office or chain of management.

Several of our performance measures demonstrate the Agency's efforts to be a

model for other agencies in resolving internal complaints and other disputes quickly and successfully. One example is the agency's Workforce Solutions program, a one-stop, informal program for settling all types of workplace disputes within the EPA. It is an Alternative Dispute Resolution process available for equal employment opportunity complaints, as well as grievances and unfair labor practice claims. The program uses mediation or facilitation to resolve disputes brought forward by our employees.

The EPA has gained practical knowledge and experience since the first year of implementing the No FEAR Act, and continues to recognize the importance of a centralized database of information relevant to the reporting requirements of the NoFEAR Act. It is important that there be an electronic interface between the Office of Civil Rights; Office Human Resources; Offices of the General Counsel and Chief Financial Officer. Because these organizations play a vital role in meeting the reporting requirements of the No Fear Act, OCR will work to develop an information system to facilitate the process of gathering information and data from these important departments in its headquarters and regional offices.

The EPA continues to emphasize education and awareness as effective tools in understanding the complaint process and as a mechanism for reducing the number of administrative and judicial complaints of discrimination. In addition, the requirement for Federal agencies to reimburse the Judgment Fund for judgments, awards, and compromise settlements resulting from Federal court cases serves as an incentive to agencies to avoid the potential for adverse judgments.

#### **V. ADJUSTMENTS TO BUDGET (5 C.F.R. § 724.302(a)(8))**

Section 203(a)(8) of the No FEAR Act requires that agencies include in their Annual Report "any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201." At the time of this report, the Office of Civil Rights was diligently coordinating with the Office of the Chief Financial Officer to ensure that the Agencies budget was accurately adjusted to reflect reimbursements made to the Judgment Fund and also creating specific EEO billing codes to streamline future transactions and improve our current data tracking methodologies.

#### **VI. ACTIONS PLANNED OR TAKEN TO IMPROVE COMPLAINT OR CIVIL RIGHTS PROGRAMS (5 C.F.R. § 724.302 (a)(7)(iv))**

We continually strive to attain a model EEO program that will provide the infrastructure necessary for the Agency to achieve the ultimate goal of a

discrimination-free work environment, characterized by an atmosphere of inclusion and free and open competition for employment opportunities.

The six elements identified as necessary for a model EEO program are:

- Demonstrated commitment from agency leadership;
- Integration of EEO into the agency's strategic mission;
- Management and program accountability;
- Proactive prevention of unlawful discrimination;
- Efficiency; and
- Responsiveness and legal compliance.

As a model EEO program we will hold managers, supervisors, EEO officials, and personnel officers accountable for the effective implementation and management of the Agency's EEO program.

Regular analysis of our Agency workforce statistics will serve to reveal symptoms of barriers to equal opportunity. Therefore, when there is an indication, through statistical analyses or other means, that potential barriers may exist in the workplace, the Agency will take responsibility for proactively undertaking a thorough examination of all related policies, procedures and practices to uncover whether an actual barrier to equal employment opportunity exists and ensure appropriate objectives are implemented to eliminate it.

Our goal is to ensure that the principles and standards we promote in the workplace are readily apparent in our operations. We strive to be an organization that sets and implements the highest quality standards for EEO, customer service, internal efficiencies, and fiscal responsibility. Improving our organizational capacity and infrastructure will help us carry out our mission more effectively and efficiently. Sound management of our resources-human, financial, and technological-are key to this effort. Identified means and strategies foster workplace policies and practices that make the most effective and efficient use of human capital through open and free workplace competition. While these proactive approaches fall within our statutory charge and mission, increased emphasis on them will present new management challenges for the Agency.

Historically, the EPA's resources primarily have been devoted to reactive, charge-driven approaches to combating discrimination. Because many of our current strategies to support the objective of a proactive, education-based deterrent of discrimination differ significantly from earlier iterations of agency goals and objectives, aligning our human capital and other agency resources to

support this strategic objective will be critical to its achievement and will present challenges to the various adjustments needed in the Agency's workforce.

## **ACCOMPLISHMENTS UPDATE**

The EPA has pursued the requirements of this important legislation as indicated in the actions highlighted below.

### **Policy Development**

- (1) **Employee Disciplinary Actions for EEO and No FEAR Act Violations.** The Office of Human Resources in coordination with the Office of General Counsel and in consultation with the Office Civil Rights has developed draft disciplinary policy, including a table of penalties for disciplinary actions covering EEO violations. It is currently under Agency review.
- (2) **Evaluating Supervisory Performance.** All members of the Senior Executive Service (SES) have a performance appraisal element for equal employment opportunity, affirmative employment, and diversity. This standard serves to evaluate that person has personally accomplished to facilitate, empower or direct efforts in the implementation of the Agency's EEO/affirmative employment and diversity programs. Elements of this performance standard 'flow down ' to subordinate managers and supervisors. This standard contemplates that each manager monitor the work environment to prevent instances of discrimination, disrespect, or harassment, and will take timely action if sexual harassment or other discriminatory treatment is observed, reported, or suspected.
- (3) **Evaluating Executive Performance.** EPA has made supporting EEO and diversity efforts a leadership measure in the performance plans of its Senior Executive Service employees.

### **Employee Awareness and Training**

During FY 2006, EPA briefed and provided training to its senior staff, managers, supervisors, and employees on a variety of topics which included the following:

- The No FEAR Act;
- EEO Law;
- EEO complaint process;
- Conflict resolution communication skills;



- Alternative Dispute Resolution (ADR) and effective mediation tools to address fairly and objectively issues and concerns arising in the workplace;
- Reasonable Accommodation for Employees with Disabilities.
- Provided "neutral" training to the EEO intake staff/counselors and officers so that they have additional tools to quickly resolve EEO complaints.

### **Systems and Process Improvements**

EPA implemented several initiatives aimed at improving data systems and processes:

- (1) The EPA Office of Civil Rights enhanced its automated EEO complaint tracking system (EEONet) to allow staff to access certain real-time EEO complaint status information from the pre-complaint through the formal complaint stages. This information facilitates intervention by various civil rights staffs with managers/supervisors to resolve issues at the lowest possible organizational level. It also aids managers in developing and analyzing trends and identifying areas requiring immediate attention.
- (2) The Office of Civil Rights and the Office of General Counsel continue to hold monthly status meetings. Their respective staff have initiated quarterly meetings to discuss ways to improve processing Agency complaints, to review relevant case law and updates in the legal community as well as to brainstorm on all areas of improving the Agency EEO program.

**APPENDIX 1.****Equal Employment Opportunity Data Posted  
Pursuant to the No Fear Act**

Equal Employment Opportunity Data Posted Pursuant to Title III of the  
Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002  
(No FEAR Act), Public Law 107-174

**Data as of September 31 - End of Fiscal Year 2006**

<b>Complaint Activity</b>	<b>Comparative Data Previous Fiscal Year Data</b>				
	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
Number of Complaints Filed in Fiscal Year	104	74	71	69	76
Number of Complainants	91	66	69	65	60
Repeat Filers	6	4	2	8	11

<b>Complaints by Basis</b>	<b>Comparative Data Previous Fiscal Year Data</b>				
	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
Race	70	49	64	34	37
Color	16	16	21	12	6
Religion	1	2	0	2	0
Retaliation	81	61	72	59	57
Sex	63	46	49	39	30
National Origin	6	14	14	18	13
Equal Pay Act	0	0	0	2	0
Age	62	51	41	21	29
Disability	44	39	46	25	33
Non EEO Bases	0	1	0	0	0

**Data as of September 31 - End of Fiscal Year 2006**

<b>Complaints by Issue</b>	<b>Comparative Data Previous Fiscal Year Data</b>				

	2002	2003	2004	2005	2006
Appointment/Hire	0	0	0	0	2
Assignment of Duties	56	17	20	8	4
Awards	17	3	1	6	6
Conversion to Full-Time	0	0	1	1	0
<b>Disciplinary Action</b>					
Demotion	0	0	1	2	1
Reprimand	17	7	11	5	3
Suspension	13	5	4	0	3
Removal	2	0	4	0	2
Other	10	0	0	0	0
Duty Hours	0	0	1	0	0
Evaluation Appraisal	21	0	9	8	16
Examination/Test	1	0	0	1	0
<b>Harassment</b>					
Non-Sexual	31	79	88	32	41
Sexual	2	0	3	1	1
Medical Examination	0	0	0	0	1
Pay (Including Overtime)	0	0	4	5	4
Promotion/Non-Selection	97	92	91	22	27
<b>Reassignment</b>					
Denied	3	0	0	4	0
Directed	7	6	0	2	2
Reasonable Accommodation	8	6	14	7	11
Reinstatement	0	0	0	0	0
Retirement	1	0	0	1	2
Termination	20	11	11	6	1
Terms/Conditions of Employment	18	1	43	15	18
Time and Attendance	14	18	6	8	11
Training	3	5	9	5	6
Other	0	0	0	0	0

**Data as of September 31 - End of Fiscal Year 2006**

Processing Time	Comparative Data				
	Previous Fiscal Year				
	2002	2003	2004	2005	2006
Complaints Pending During Fiscal Year					

Average Number of Days in Investigative Stage	310	254	163	143	120
Average Number of Days in Final Action Stage	587	594	569	458	388
Complaints Pending during Fiscal Year Where Hearing was Requested					
Average Number of Days in Investigation Stage	328	283	224	250	185
Average Number of Days in Final Action Stage	0	0	0	0	0
Complaints Pending during Fiscal Year Where Hearing was not Requested					
Average Number of Days in Investigation Stage	310	284	163	143	120
Average Number of Days in Final Action Stage	587	594	569	458	388

Complaints Dismissed by Agency	Comparative Data Previous Fiscal Year Data				
	2002	2003	2004	2005	2006
Total Complaints Dismissed by Agency	19	16	23	33	21
Average Days Pending Prior to Dismissal	216	76	300	143	149
Complaints Withdrawn by Complainants					
Total Complaints Withdrawn by Complainants	6	15	12	5	4

Total Final Actions Finding Discrimination	Comparative Data Previous Fiscal Year Data				
	2002	2003	2004	2005	2006
Total Number Findings	0	3	0	0	0
Without Hearing	0	0	0	0	0
With Hearing	0	3 100%	0	0	0

**Data as of September 31 - End of Fiscal Year 2006**

Findings of Discrimination Rendered by Basis	Comparative Data Previous Fiscal Year Data				
	2002	2003	2004	2005	2006
<b>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings</b>					

	#	%	#	%	#	%	#	%	#	%
<b>Total Number of Findings</b>	0	0.00	3	100	0	0.00	0	0.00	0	0.00
Race	0	0.00	2	0.29	0	0.00	0	0.00	0	0.00
Color	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Religion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retaliation	0	0.00	2	0.29	0	0.00	0	0.00	0	0.00
Sex	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
National Origin	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Equal Pay Act	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Age	0	0.00	2	0.29	0	0.00	0	0.00	0	0.00
Disability	0	0.00	1	0.14	0	0.00	0	0.00	0	0.00
Non-EEO	0	0.00	2	0.29	0	0.00	0	0.00	0	0.00

**Data as of September 31 - End of Fiscal Year 2006**

<b>Findings of Discrimination Rendered by Basis</b>	<b>Comparative Data Previous Fiscal Year Data</b>									
<b>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings</b>	<b>2002</b>		<b>2003</b>		<b>2004</b>		<b>2005</b>		<b>2006</b>	
	#	%	#	%	#	%	#	%	#	%
<b>Findings After Hearing</b>	0	0.00	3	100	0	0.00	0	0.00	0	0.00
Race	0	0.00	2	0.29	0	0.00	0	0.00	0	0.00
Color	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Religion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retaliation	0	0.00	2	0.29	0	0.00	0	0.00	0	0.00
Sex (Includes Equal Pay Act)	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
National Origin	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Equal Pay Act	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Age	0	0.00	2	0.29	0	0.00	0	0.00	0	0.00
Disability	0	0.00	1	0.14	0	0.00	0	0.00	0	0.00
Non-EEO	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

**Data as of September 31 - End of Fiscal Year 2007**

<b>Findings of Discrimination Rendered by Basis</b>	<b>Comparative Data Previous Fiscal Year Data</b>									
<b>Note: Complaints can be filed alleging multiple bases. The sum of</b>	<b>2002</b>		<b>2003</b>		<b>2004</b>		<b>2005</b>		<b>2006</b>	
	#	%	#	%	#	%	#	%	#	%

the bases may not equal total complaints and findings										
	#	%	#	%	#	%	#	%	#	%
<b>Findings Without Hearing</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Race	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Color	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Religion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retaliation	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Sex	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
National Origin	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Equal Pay Act	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Age	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Disability	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-EEO	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

**Data as of September 31 - End of Fiscal Year 2007**

Findings of Discrimination Rendered by Issues	Comparative Data Previous Fiscal Year Data									
	2002		2003		2004		2005		2006	
	#	%	#	%	#	%	#	%	#	%
<b>Total Number of Findings</b>	0	0.00	3	100	0	0.00	0	0.00	0	0.00
Appointment/Hire	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Assignment of Duties	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Awards	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Conversion to Full-Time	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Disciplinary Action</b>										
Demotion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reprimand	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Suspension	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Removal	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Duty Hours	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Evaluation Appraisal	0	0.00	1	0.25	0	0.00	0	0.00	0	0.00
Examination/Test	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Harassment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Medical Examination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Pay (Including Overtime)	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Promotion/Non-Selection	0	0.00	2	0.50	0	0.00	0	0.00	0	0.00
<b>Reassignment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Denied	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Directed	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reasonable Accommodation	0	0.00	1	0.25	0	0.00	0	0.00	0	0.00
Reinstatement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retirement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Termination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Terms/Conditions of Employment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Time and Attendance	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Training	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

**Data as of September 31 - End of Fiscal Year 2006**

Findings of Discrimination Rendered by Issues	Comparative Data Previous Fiscal Year Data									
	2002		2003		2004		2005		2006	
	#	%	#	%	#	%	#	%	#	%
<b>Findings After Hearing</b>	0	0.00	3	100	0	0.00	0	0.00	0	0.00
Appointment/Hire	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Assignment of Duties	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Awards	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Conversion to Full-Time	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Disciplinary Action</b>										
Demotion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reprimand	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Suspension	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Removal	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Duty Hours	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Evaluation Appraisal	0	0.00	1	0.25	0	0.00	0	0.00	0	0.00
Examination/Test	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Harassment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Medical Examination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Pay (Including Overtime)	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Promotion/Non-Selection	0	0.00	2	0.50	0	0.00	0	0.00	0	0.00
<b>Reassignment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Denied	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Directed	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reasonable Accommodation	0	0.00	1	0.25	0	0.00	0	0.00	0	0.00
Reinstatement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retirement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Termination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Terms/Conditions of Employment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Time and Attendance	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Training	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

**Data as of September 31 - End of Fiscal Year 2006**

Findings of Discrimination Rendered by Issues	Comparative Data Previous Fiscal Year Data									
	2002		2003		2004		2005		2006	
	#	%	#	%	#	%	#	%	#	%
<b>Findings Without Hearing</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Appointment/Hire	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Assignment of Duties	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Awards	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Conversion to Full-Time	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Disciplinary Action</b>										
Demotion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reprimand	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Suspension	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Removal	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Duty Hours	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Evaluation Appraisal	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Examination/Test	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Harassment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Medical Examination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00



Pay (Including Overtime)	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Promotion/Non-Selection	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Reassignment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Denied	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Directed	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reasonable Accommodation	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reinstatement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retirement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Termination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Terms/Conditions of Employment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Time and Attendance	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Training	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

**Data as of September 31 - End of Fiscal Year 2006**

<b>Pending Complaints Filed In Previous Years by Status</b>	<b>Comparative Data Previous Fiscal Year Data</b>				
<b>Complaint Activity</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
Total Complaints from previous Fiscal Years	149	175	167	129	91
Total Complainants	142	166	165	111	75
<b>Number of Complaints Pending</b>					
In Investigation	33	9	3	0	0
In Hearing	69	76	95	32	25
Final Action	0	37	4	15	9
Appeal with EEOC Office of Federal Operations	43	61	52	30	22

	<b>Comparative Data Previous Fiscal Year Data</b>				
<b>Complaint Investigations</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
Pending Complaints Where Investigation Exceeds Required Time Frames	21	21	7	6	4

## **APPENDIX 2**

# **MEMORANDUM- Policy Statement on Prohibition of Sexual Harassment**

**SUBJECT: Policy Statement on Prohibition of Sexual Harassment**

**TO: All Employees**

Our Agency is committed to maintaining a work environment governed by responsible, efficient, and ethical management. To ensure such a commitment, we all need to know the policies and guidelines prohibiting sexual harassment. Any behaviors which weaken our ability to lead and manage our people and programs are unacceptable in our work place.

Sexual harassment is a prohibited personnel practice contrary to merit system principles outlined in the Civil Service Reform Act of 1978 and contrary to law outlined in Title VII of the Civil Rights Act of 1964. Specifically, sexual harassment is deliberate, or repeated, unsolicited verbal comments, gestures, or physical contacts of a sexual nature which are unwelcome. Such sexual advances, requests for sexual favors, and other harassment when: (1) they are made explicitly or implicitly a condition of an individual's employment; (2) submission to, or rejection of them, affects employment decisions impacting an individual, such as promotion or work assignments; or (3) they unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive work environment.

Any behavior which undermines the integrity of the employment relationship, impairs morale or interferes with employee productivity is a violation of ethical conduct in our Agency.

This memorandum constitutes the official policy regarding sexual harassment at the Environmental Protection Agency. We all share in the responsibility to promote a climate free from sexual harassment.

/s/ Carol M. Browner

**Issued:** June 1, 1993

## **APPENDIX 3**

# **Memorandum- Equal Employment Opportunity Policy Statement**

**SUBJECT: Equal Employment Opportunity Policy Statement**

**TO: All Employees**

From time to time, it is important that we renew and restate our commitment to providing equal employment opportunity for all persons. Today, the Environmental Protection Agency (EPA) joins the growing list of public and private sector employers which have added "sexual orientation" to our Equal Employment Opportunity Policy. Equal employment opportunity will be provided to all individuals regardless of race, color, national origin, religion, gender, age, disability, or sexual orientation. Discrimination or harassment based on these factors is unacceptable and will not be tolerated at EPA.

Civil rights cannot be protected or equal employment opportunity achieved without the deliberate support of each of us. It is an integral part of the responsibilities of each EPA manager and supervisor. The degree of effort expended to further the goals of the civil rights program and the results attained will be factors in evaluations and performance ratings.

Complaints of discrimination will be resolved fairly, expeditiously, and dispassionately at the lowest level whenever possible. Complainants, representatives and witnesses involved will be unimpeded and free from restraint, coercion, or reprisal.

The Director of the Office of Civil Rights will continue to direct the overall practices and programs of the Agency which contribute to the protection of civil rights and the promotion of our equal employment opportunity policy. I hold managers and supervisors at all levels responsible for promoting and supporting this policy.

Thank you for joining me in renewing our commitment to equal opportunity at the EPA.

/s/ Carol M. Browner

Issued: October 14, 1994

## **APPENDIX 4**

### **2007 Equal Employment Opportunity Policy**

Under the Civil Rights Act of 1964, as amended, other civil rights legislation, and Executive Orders, it is the policy of the Government of the United States to provide equal opportunity in Federal employment for all persons. As a federal agency, it is the policy of the EPA to prohibit discrimination in employment based on race, color, national origin, sex, age, disability, sexual orientation, marital status, status as a parent, retaliation or protected genetic information. Further, it is the policy of this Agency to provide equal employment opportunity to all persons; and to promote the full realization of equal employment opportunity through a continuing affirmative employment program.

To assist in translating this commitment into meaningful action, each Assistant/Associate Administrator and Regional Administrator will hold managers, supervisors, and other employees within their management purview, accountable in ensuring that EPA customers and employees are treated fairly and equitably. Further, I expect every EPA employee to comport his/herself in a manner that clearly demonstrates their understanding of these principles and in compliance with all policies that prohibit all forms of discrimination in the workplace.

Accountability shall be evidenced by:

- a general requirement for senior managers to establish sound management and personnel practices.
- a requirement to, as appropriate, engage in alternative dispute resolution (ADR) to resolve issues quickly; and
- an EEO, fairness, and diversity performance standard in effect for all managers at the SES level with an annual review of performance in this area, by appropriate reviewing Board(s).

Discrimination and harassment undermine the integrity of the employment relationship, compromise equal employment opportunity, and significantly interfere with the effective accomplishment of the mission of the Agency. EPA's policy against discrimination and harassment is applicable to all employment practices, including recruitment, selection, hiring, promotions, detail assignments, transfers, terminations, career development and training, performance evaluations, awards, and working conditions. With your continued support and commitment to equal employment opportunity, we will continue our work towards a discrimination and harassment free work environment.

Issued: June 14, 2007



OFFICE OF CIVIL RIGHTS

# U.S ENVIRONMENTAL PROTECTION AGENCY

Fiscal Year 2007

Annual Report to Congress  
pursuant to the  
Notification and Federal Employee  
Antidiscrimination and Retaliation  
Act of 2002

## TABLE OF CONTENTS

I. Executive Summary .....	1
II. Background .....	1
III. Data .....	3
IV. Analysis of Trends, Causal Analysis and Practical Knowledge Gained Through Experience.....	5
V. Adjustment to Budget .....	6
VI. Actions Planned or Taken to Improve Complaint or Civil Rights Programs.....	6
APPENDIX 1 No Fear 2007 Fiscal Year Totals.....	10
APPENDIX 2 Prevention of Sexual Harassment Policy Statement.....	25
APPENDIX 3 Harassment Based on Sexual Orientation Policy Statement.....	26
APPENDIX 4 EEO Policy Statement.....	27

## **I. EXECUTIVE SUMMARY**

The U.S. Environmental Protection Agency (EPA or Agency) provides its Annual Report to Congress as required by Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 ("No FEAR Act"), Public Law 107-174. This report includes the number of cases in Federal court pending or resolved in fiscal year (FY) 2007 and, in connection with those cases, their disposition; money required to be reimbursed to the judgment fund; and the number of employees disciplined and the nature of the disciplinary action taken.

During FY 2007, there were a total of 26 cases pending before Federal courts. Among these cases, there were 17 claims of violation of Title VII; 8 claims of violations of the Rehabilitation Act; and 5 claims of violation of the Age Discrimination in Employment Act.

Six of these cases were dismissed by the courts; one is pending a decision on the plaintiff's request for reconsideration of the court's decision to dismiss the case; one is on appeal; and 15 are proceeding at different stages of the pretrial process.

Of the 26 cases reported for FY 2007, 3 were settled during the reporting period, all 3 involving Title VII claims. One case involved the lump-sum payment of \$130,000 with no specific amount for attorney's fees designated separately. Another case involved the payment of \$40,000, of which \$20,486 was separately designated to cover attorney's fees claimed by the plaintiff. The third settled case involved the payment of \$19,000, all of which was designated to cover the attorney's fees claimed by the plaintiff. All of these payments required reimbursement to the Judgment Fund.

The EPA reports that there were no disciplinary actions taken in connection with any Federal case pending or resolved in FY 2007 brought under applicable provisions of the Federal Anti-discrimination Laws and Whistleblower Protection Laws or for any conduct that is inconsistent with the Federal Antidiscrimination Laws and Whistleblower Protection Laws or for conduct that constitutes another prohibited personnel practice.

The EPA continues to stress training as a mechanism for reducing the number of discrimination complaints.

## **II. BACKGROUND**

On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," which is now known as the No FEAR Act. One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." Public Law 107-174, Summary. In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination." Public Law 107-174, Title I, General Provisions, section 101(1).

### **III. DATA**

#### **a. Civil Cases**

Section 203(a)(1) of the No FEAR Act requires that agencies include in their Annual Report "the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged." Section 724.302 of OPM's final regulations on reporting and best practices clarifies section 203 (1) of the No FEAR Act stating that agencies report on the "number of cases in Federal Court [district and appellate] pending or resolved... arising under each of the respective provisions of the Federal Antidiscrimination laws and Whistleblower Protection Laws applicable to them... in which an employee, former Federal employee, or applicant alleged a violation(s) of these laws, separating data by the provision(s) of law involved." The data presented below is the best available as of this reporting period. It includes all responsive data that the Agency has been able to identify to date. The Office of Civil Rights (OCR) will continue its' best efforts to identify and post all responsive data in the future.

During FY 2007, there were a total of 26 cases pending before Federal courts. Among these cases, there were 17 claims of violation of Title VII; 8 claims of violations of the Rehabilitation Act; and 5 claims of violation of the Age Discrimination in Employment Act.

Six of these cases were dismissed by the courts; one is pending a decision on the plaintiff's request for reconsideration of the court's decision to dismiss the case; one is on appeal; three were settled and 15 are proceeding at different stages of the pretrial process.

#### **b. Reimbursement to the Judgment Fund**

The OPM published final regulations to clarify the agency reimbursement provisions of Title II of the No FEAR Act. These regulations state that the U.S. Department of the Treasury's Financial Management Service (FMS) will provide notice to a Federal agency's Chief Financial Officer within 15 business days after payment from the Judgment Fund. The agency is required to reimburse the Judgment Fund within 45 business days after receiving the notice from FMS or contact them to make arrangements in writing for reimbursement.

Of the 26 cases reported for FY 2007, 3 were settled during the reporting period, all 3 involving Title VII claims. One case involved the lump-sum payment of \$130,000 with no specific amount for attorney's fees designated separately. Another case involved the payment of \$40,000, of which \$20,486 was separately designated to cover attorney's fees claimed by the plaintiff. The third settled case involved the payment of \$19,000, all of which was designated to cover the attorney's fees claimed by the plaintiff. All of these payments required reimbursement to the Judgment Fund



- (2) The Office of Civil Rights and the Office of General Counsel continue to hold monthly status meetings. Their respective staff has initiated quarterly meetings to discuss ways to improve processing Agency complaints, to review relevant case law and updates in the legal community as well as to brainstorm on all areas of improving the Agency EEO program.

## APPENDIX 1

### Equal Employment Opportunity Data Posted Pursuant to the No Fear Act

Equal Employment Opportunity Data Posted Pursuant to Title III of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174

Data as of September 31 - End of Fiscal Year 2007

Complaint Activity	Comparative Data Previous Fiscal Year Data					
	2002	2003	2004	2005	2006	2007
Number of Complaints Filed in Fiscal Year	104	74	71	69	76	64
Number of Complainants	91	66	69	65	60	59
Repeat Filers	6	4	2	8	11	7

Complaints by Basis	Comparative Data Previous Fiscal Year Data					
	2002	2003	2004	2005	2006	2007
Race	70	49	64	34	37	33
Color	16	16	21	12	6	8
Religion	1	2	0	2	0	2

Retaliation	81	61	72	59	57	36
Sex	63	46	49	39	30	22
National Origin	6	14	14	18	13	9
Equal Pay Act	0	0	0	2	0	1
Age	62	51	41	21	29	30
Disability	44	39	46	25	33	23
Non EEO Bases	0	1	0	0	0	0

Complaints by Issue	Comparative Data Previous Fiscal Year Data					
	2002	2003	2004	2005	2006	2007
Appointment/Hire	0	0	0	0	2	0
Assignment of Duties	56	17	20	8	4	8
Awards	17	3	1	6	6	2
Conversion to Full-Time	0	0	1	1	0	0
<b>Disciplinary Action</b>						
Demotion	0	0	1	2	1	0
Reprimand	17	7	11	5	3	3

Suspension	13	5	4	0	3	3
Removal	2	0	4	0	2	0
Other	10	0	0	0	0	0
Duty Hours	0	0	1	0	0	1
Evaluation Appraisal	21	0	9	8	16	14
Examination/Test	1	0	0	1	0	0
<b>Harassment</b>						
Non-Sexual	31	79	88	32	41	27
Sexual	2	0	3	1	1	0
Medical Examination	0	0	0	0	1	0
Pay (Including Overtime)	0	0	4	5	4	4
Promotion/Non-Selection	97	92	91	22	27	22
<b>Reassignment</b>						
Denied	3	0	0	4	0	4
Directed	7	6	0	2	2	2
Reasonable Accommodation	8	6	14	7	11	7
Reinstatement	0	0	0	0	0	2
Retirement	1	0	0	1	2	1
Termination	20	11	11	6	1	5
Terms/Conditions of Employment	18	1	43	15	18	17
Time and Attendance	14	18	6	8	11	11
Training	3	5	9	5	6	5
Other	0	0	0	0	0	0

Processing Time	Comparative Data Previous Fiscal Year					
	2002	2003	2004	2005	2006	2007

<b>Complaints Pending During Fiscal Year</b>						
Average Number of Days in Investigative Stage	310	254	163	143	120	112
Average Number of Days in Final Action Stage	587	594	569	458	388	400
<b>Complaints Pending During Fiscal Year Where Hearing was Requested</b>						
Average Number of Days in Investigation Stage	328	283	224	250	185	251
Average Number of Days in Final Action Stage	0	0	0	0	0	0
<b>Complaints Pending During Fiscal Year Where Hearing was not Requested</b>						
Average Number of Days in Investigation Stage	310	284	163	143	120	112

Average Number of Days in Final Action Stage	587	594	569	458	388	400
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Complaints Dismissed by Agency	Comparative Data Previous Fiscal Year Data					
	2002	2003	2004	2005	2006	2007
Total Complaints Dismissed by Agency	19	16	23	33	21	11
Average Days Pending Prior to Dismissal	216	76	300	143	149	169
Complaints Withdrawn by Complainants						
Total Complaints Withdrawn by Complainants	6	15	12	5	4	9

Total Final Actions Finding Discrimination	Comparative Data Previous Fiscal Year Data					
	2002	2003	2004	2005	2006	2007
Total Number Findings	0	3	0	0	0	2
Without Hearing	0	0	0	0	0	0
With Hearing	0	3 100%	0	0	0	2 100%

Findings of Discrimination Rendered by Basis	Comparative Data Previous Fiscal Year Data											
Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings	2002		2003		2004		2005		2006		2007	
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number of Findings	0	0.00	3	100	0	0.00	0	0.00	0	0.00	0	0.00

Race	0	0.00	2	0.29	0	0.00	0	0.00	0	0.00	0	0.00
Color	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Religion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retaliation	0	0.00	2	0.29	0	0.00	0	0.00	0	0.00	2	0.66
Sex	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	1	0.33
National Origin	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Equal Pay Act	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Age	0	0.00	2	0.29	0	0.00	0	0.00	0	0.00	0	0.00
Disability	0	0.00	1	0.14	0	0.00	0	0.00	0	0.00	0	0.00
Non-EEO	0	0.00	2	0.29	0	0.00	0	0.00	0	0.00	0	0.00





Equal Pay Act	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Age	0	0.00	2	0.29	0	0.00	0	0.00	0	0.00	0	0.00
Disability	0	0.00	1	0.14	0	0.00	0	0.00	0	0.00	0	0.00
Non-EEO	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Findings of Discrimination Rendered by Basis	Comparative Data Previous Fiscal Year Data											
	2002		2003		2004		2005		2006		2007	
Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings	#	%	#	%	#	%	#	%	#	%	#	%
Findings Without Hearing	0	0.00	0	0	0	0.00	0	0.00	0	0.00	0	0.00
Race	0	0.00	0	0	0	0.00	0	0.00	0	0.00	0	0.00
Color	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Religion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retaliation	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Sex	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
National Origin	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Equal Pay Act	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Age	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Disability	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-EEO	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Findings of Discrimination Rendered by Issues	Comparative Data Previous Fiscal Year Data											
	2002		2003		2004		2005		2006		2007	
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number of Findings	0	0.00	3	100	0	0.00	0	0.00	0	0.00	0	0.00

Appointment/Hire	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Assignment of Duties	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Awards	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Conversion to Full-Time	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Disciplinary Action</b>												
Demotion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	1	0.25
Reprimand	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Suspension	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Removal	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Duty Hours	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Evaluation Appraisal	0	0.00	1	0.25	0	0.00	0	0.00	0	0.00	1	0.25
Examination/Test	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Harassment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	1	0.25
Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Medical Examination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Pay (Including Overtime)	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Promotion/Non-Selection	0	0.00	2	0.50	0	0.00	0	0.00	0	0.00	0	0.00
<b>Reassignment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Denied	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Directed	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.25
Reasonable Accommodation	0	0.00	1	0.25	0	0.00	0	0.00	0	0.00	0	0.00
Reinstatement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retirement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Termination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Terms/Conditions of Employment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Time and Attendance	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Training	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Findings of Discrimination Rendered by Issues	Comparative Data Previous Fiscal Year Data											
	2002		2003		2004		2005		2006		2007	
	#	%	#	%	#	%	#	%	#	%	#	%
<b>Findings After Hearing</b>	0	0.00	3	100	0	0.00	0	0.00	0	0.00	0	0.00
Appointment/Hire	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Assignment of Duties	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Awards	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Conversion to Full-Time	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Disciplinary Action</b>												
Demotion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	1	0.25
Reprimand	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Suspension	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Removal	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Duty Hours	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Evaluation Appraisal	0	0.00	1	0.25	0	0.00	0	0.00	0	0.00	1	0.25
Examination/Test	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Harassment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	1	0.25
Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Medical Examination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Pay (Including Overtime)	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Promotion/Non-Selection	0	0.00	2	0.50	0	0.00	0	0.00	0	0.00	0	0.00
<b>Reassignment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Denied	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Directed	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	1	0.25

Reasonable Accommodation	0	0.00	1	0.25	0	0.00	0	0.00	0	0.00	0	0.00
Reinstatement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retirement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Termination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Terms/Conditions of Employment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Time and Attendance	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Training	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Findings of Discrimination Rendered by Issues	Comparative Data Previous Fiscal Year Data											
	2002		2003		2004		2005		2006		2007	
	#	%	#	%	#	%	#	%	#	%	#	%
<b>Findings Without Hearing</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Appointment/Hire	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Assignment of Duties	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Awards	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Conversion to Full-Time	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Disciplinary Action</b>												
Demotion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reprimand	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Suspension	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Removal	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Duty Hours	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Evaluation Appraisal	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Examination/Test	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Harassment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Medical Examination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Pay (Including Overtime)	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Promotion/Non-Selection	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Reassignment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Denied	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Directed	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reasonable Accommodation	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reinstatement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retirement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Termination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Terms/Conditions of Employment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Time and Attendance	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Training	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Pending Complaints Filed in Previous Years by Status	Comparative Data					
	Previous Fiscal Year Data					
Complaint Activity	2002	2003	2004	2005	2006	2007
Total Complaints from previous Fiscal Years	149	175	167	129	91	81
Total Complainants	142	166	165	111	75	54

<b>Number of Complaints Pending</b>						
In Investigation	33	9	3	0	0	0
In Hearing	69	76	95	32	25	14
Final Action	0	37	4	15	9	7
Appeal with EEOC Office of Federal Operations	43	61	52	30	22	9

	<b>Comparative Data</b>					
	<b>Previous Fiscal Year Data</b>					
<b>Complaint Investigations</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
Pending Complaints Where Investigation Exceeds Required Time Frames	21	21	7	6	4	4

## **APPENDIX 2**

# **MEMORANDUM- Policy Statement on Prohibition of Sexual Harassment**

**SUBJECT: Policy Statement on Prohibition of Sexual Harassment**

**TO: All Employees**

Our Agency is committed to maintaining a work environment governed by responsible, efficient, and ethical management. To ensure such a commitment, we all need to know the policies and guidelines prohibiting sexual harassment. Any behaviors which weaken our ability to lead and manage our people and programs are unacceptable in our work place.

Sexual harassment is a prohibited personnel practice contrary to merit system principles outlined in the Civil Service Reform Act of 1978 and contrary to law outlined in Title VII of the Civil Rights Act of 1964. Specifically, sexual harassment is deliberate, or repeated, unsolicited verbal comments, gestures, or physical contacts of a sexual nature which are unwelcome. Such sexual advances, requests for sexual favors, and other harassment when: (1) they are made explicitly or implicitly a condition of an individual's employment; (2) submission to, or rejection of them, affects employment decisions impacting an individual, such as promotion or work assignments; or (3) they unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive work environment.

Any behavior which undermines the integrity of the employment relationship, impairs morale or interferes with employee productivity is a violation of ethical conduct in our Agency.

This memorandum constitutes the official policy regarding sexual harassment at the Environmental Protection Agency. We all share in the responsibility to promote a climate free from sexual harassment.

/s/ Carol M. Browner

**Issued:** June 1, 1993



## **APPENDIX 3**

# **Memorandum- Equal Employment Opportunity Policy Statement**

**SUBJECT: Equal Employment Opportunity Policy Statement**

**TO: All Employees**

From time to time, it is important that we renew and restate our commitment to providing equal employment opportunity for all persons. Today, the Environmental Protection Agency (EPA) joins the growing list of public and private sector employers which have added "sexual orientation" to our Equal Employment Opportunity Policy. Equal employment opportunity will be provided to all individuals regardless of race, color, national origin, religion, gender, age, disability, or sexual orientation. Discrimination or harassment based on these factors is unacceptable and will not be tolerated at EPA.

Civil rights cannot be protected or equal employment opportunity achieved without the deliberate support of each of us. It is an integral part of the responsibilities of each EPA manager and supervisor. The degree of effort expended to further the goals of the civil rights program and the results attained will be factors in evaluations and performance ratings.

Complaints of discrimination will be resolved fairly, expeditiously, and dispassionately at the lowest level whenever possible. Complainants, representatives and witnesses involved will be unimpeded and free from restraint, coercion, or reprisal.

The Director of the Office of Civil Rights will continue to direct the overall practices and programs of the Agency which contribute to the protection of civil rights and the promotion of our equal employment opportunity policy. I hold managers and supervisors at all levels responsible for promoting and supporting this policy.

Thank you for joining me in renewing our commitment to equal opportunity at the EPA.

/s/ Carol M. Browner

Issued: October 14, 1994

## **APPENDIX 4**

### **2007 Equal Employment Opportunity Policy**

Under the Civil Rights Act of 1964, as amended, other civil rights legislation, and Executive Orders, it is the policy of the Government of the United States to provide equal opportunity in Federal employment for all persons. As a federal agency, it is the policy of the EPA to prohibit discrimination in employment based on race, color, national origin, sex, age, disability, sexual orientation, marital status, status as a parent, retaliation or protected genetic information. Further, it is the policy of this Agency to provide equal employment opportunity to all persons; and to promote the full realization of equal employment opportunity through a continuing affirmative employment program.

To assist in translating this commitment into meaningful action, each Assistant/Associate Administrator and Regional Administrator will hold managers, supervisors, and other employees within their management purview, accountable in ensuring that EPA customers and employees are treated fairly and equitably. Further, I expect every EPA employee to comport his/herself in a manner that clearly demonstrates their understanding of these principles and in compliance with all policies that prohibit all forms of discrimination in the workplace. Accountability shall be evidenced by:

- a general requirement for senior managers to establish sound management and personnel practices.
- a requirement to, as appropriate, engage in alternative dispute resolution (ADR) to resolve issues quickly; and
- an EEO, fairness, and diversity performance standard in effect for all managers at the SES level with an annual review of performance in this area, by appropriate reviewing Board(s).

Discrimination and harassment undermine the integrity of the employment relationship, compromise equal employment opportunity, and significantly interfere with the effective accomplishment of the mission of the Agency. EPA's policy against discrimination and harassment is applicable to all employment practices, including recruitment, selection, hiring, promotions, detail assignments, transfers, terminations, career development and training, performance evaluations, awards, and working conditions. With your continued support and commitment to equal employment opportunity, we will continue our work towards a discrimination and harassment free work environment.

Issued: June 14, 2007

SUSAN M. COLLINS  
MAINE

413 DIRKSEN SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-1904  
(202) 224-2523  
(202) 724-2693 (FAX)

## United States Senate

WASHINGTON, DC 20510-1904

December 14, 2009

COMMITTEES:  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS,  
RANKING MEMBER  
APPROPRIATIONS  
ARMED SERVICES  
SPECIAL COMMITTEE  
ON AGING

The Honorable Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Room 3000  
Washington, D.C. 20460

Dear Administrator Jackson:

We are writing to commend your recent decision to delay acting on Growth Energy's petition calling for the introduction of mid-level ethanol fuel blends (i.e., blends of gasoline with fuel ethanol concentrations greater than 10 percent) into the marketplace before adequate testing is complete. In your recent testimony before the Environment and Public Works Committee you stated that the Environmental Protection Agency did not have sufficient data to act on the petition; only two automobile engines, both manufactured since 2001, had been tested with mid-level ethanol blends and additional testing was necessary before determining how to respond to the petition. We agree that more rigorous and thorough testing of mid-level ethanol fuels is needed before these fuels become commonplace at filling stations across the country.

There are lessons to be learned from our unsuccessful attempt to use boutique fuels to address regional air quality issue in the 1990s. Allowing mid-level ethanol fuel blends that are only suitable for newer automobiles adds an entirely new level of logistics and market complexity for fuel retailers and consumers to deal with. Not only would filling stations need to carry a variety of fuels with different octane levels, but also they would need to provide facilities with various fuel blends. The continued market demand for fuels with lower concentrations of ethanol creates additional challenges for filling stations to ensure adequate product availability for their customers. This was a particularly challenging issue for fuel retailers during the boutique fuel blends experiment of the last decade.

Fuel purchased at the pump is used to power more than just cars, and not just cars built in the last eight years. The impacts of mid-ethanol fuel blends on small engines must also be thoroughly evaluated in EPA's tests. Currently, motor fuels can contain no greater than 10 percent ethanol (E10). While sophisticated modern automobile engines usually can burn E10 and other gasoline-ethanol blends successfully, older automobiles, small aircraft, and simple engines used in off-road applications (e.g., marine, All terrain vehicles and snowmobile engines) as well as small engines that power common yard and landscaping equipment (e.g., leaf-trimmers, lawn mowers, chainsaws, etc.) have had significant difficulties running on E10. There are hundreds of millions of these engines in use in the United States today. Replacing E10 with fuels containing an even greater concentration of ethanol could make matters worse. Equipment damage due to ethanol-gasoline blended fuels can pose both safety hazards and significant financial hardship for operators.



The U.S. Coast Guard, in its review of the Growth Energy waiver request, noted that the majority of the recreational boat fleet is more than ten years-old. These older vessels were not designed to accommodate ethanol blended fuels. It noted that fuel leaks caused by fuel system deterioration, already being reported by users of E10, could be expected to increase in severity if the amount of ethanol exceeded 10 percent and cause an unacceptable level of risk for fire and explosion. Another marine safety problem was experienced by a Maine boater when, after his boat was fueled with E10 without his knowledge, the engine failed when he was far from shore. Also, reports have surfaced of unexpected gear engagement when chainsaws, designed to operate with gasoline, are used with E10.

The automobile industry has been concerned about the impact that increasing the ethanol content of ethanol-gasoline fuel blends will have on the long-term operability of the catalytic converters on their vehicles. Catalytic converters are essential to mitigating vehicle air pollution and assuring that vehicles comply with emissions standards set under the Clean Air Act. In addition to concerns about catalytic converters, vehicle users have concerns about the impacts ethanol-gasoline fuel blends have on vehicle performance.

We applaud your decision to wait until there is sufficient testing of mid-level ethanol blends before deciding whether to permit such fuels into commerce. We urge you to include in your test plans a representative sample of small engines in addition to motor vehicle engines to ensure that replacing E10 with new fuels containing greater levels of ethanol does not severely compromise the safety and performance of these engines and unnecessarily put people's safety and financial situations at risk.

Sincerely,



Susan M. Collins  
U.S. Senator



Benjamin L. Cardin  
U.S. Senator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB - 4 2010

OFFICE OF  
AIR AND RADIATION

The Honorable Susan M. Collins  
United States Senate  
Washington, D.C. 20510

Dear Senator Collins:

Thank you for your December 14, 2009 letter to Administrator Lisa P. Jackson of the U.S. Environmental Protection Agency (EPA), co-signed by one of your colleagues, concerning the request from Growth Energy to increase the allowable ethanol content of gasoline to 15 percent by volume (E15). In your letter, you state your support of EPA's decision to gather additional test data before determining if the waiver should be granted. You noted that there is particular concern for the compatibility of E15 with off-road engines and older automobiles.

EPA is well aware that E15 may not be suitable for many off-road engines and older automobiles. Thus, if the data ultimately support a waiver for newer automobiles, we will take steps to address fuel pump labeling to ensure that consumers use the proper gasoline in their vehicles and equipment. An internal working group is being pulled together to examine and address labeling issues. This would allow final labeling requirements to be put in place promptly if a waiver were granted for the use of E15 in newer automobiles.

As you may be aware, industry is discussing additional testing with the Department of Energy (DOE) for various engines which include the older and off-road engines you identified. Also, industry, in coordination with DOE, is currently conducting several test programs for on-road vehicles representing a mix of current vehicles. We welcome these and other public and private testing efforts and will consider relevant and available data at the time of our decision.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy", is written over a horizontal line.

Gina McCarthy  
Assistant Administrator

# United States Senate

WASHINGTON, DC 20510

July 23, 2009

Admiral Thad W. Allen  
Commandant  
United States Coast Guard  
2100 Second St., S.W.  
Washington, DC 20593

Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, DC 20460

Nancy Sutley  
Chairman  
Council on Environmental Quality  
730 Jackson Place NW  
Washington, DC 20503

Dr. John Holdren  
Director  
Office of Science & Technology Policy  
725 17th Street Room 5228  
Washington, DC 20502

Dear Admiral Allen, Administrator Jackson, Chairman Sutley, and Director Holdren:

We have been working over the years to protect our nation's waters from non-native, invasive species including non-native species entering our waters through ballast water and ship mediated pathways. If non-native species become established, they can adversely impact the economy and the environment as well as cause harm to human health. One of the greatest threats to our waters is aquatic invasive species, and the largest pathway for aquatic invasive species to be introduced to a new water body is through ballast water from ships. According to the World Wildlife Fund, there are approximately 4,000 invasive species carried in the ballast tanks of ships entering U.S. waters each day.

We appreciate the efforts of the Coast Guard and the Environmental Protection Agency (EPA) to move forward with their statutory and court-mandated obligations related to this issue; however, we would like to understand how the Administration will coordinate the two agencies' programs. Currently, the Coast Guard has a ballast water management program with mandatory ballast water exchange requirements, inspections, and civil penalties. Additionally, the Coast Guard is engaged in a rulemaking that would set a performance standard for the quality of ballast water discharged in U.S. waters.

In creating a performance standard for the quality of ballast water discharges, we urge you to create a strong program that has a much more stringent discharge standard than the standard adopted by the International Maritime Organization. We urge you to ensure certainty for ship owners by allowing approved ballast technology that can meet the discharge standard to be permitted on ships for a defined time period such as ten years. Lastly, we urge coordination among the Coast Guard and EPA to ensure the regular review of advances in technology to ensure that the best available technology is required.

Concurrently, the EPA has issued regulations establishing the Vessel General Permit

(VGP) in order to regulate discharges incidental to the normal operation of vessels. "Discharges incidental to normal operation" include deck runoff from routine deck cleaning, bilgewater from properly functioning oily water separators, and ballast water. The VGP adopts most of the Coast Guard's ballast management practices, but the EPA specifically declined to require a numeric treatment standard for the discharge of living organisms from ballast tanks because the ballast technology to meet these standards is not commercially available. Further, the EPA indicates that it will consider changes in technology when developing future permits.

Meanwhile, issues related to the environmental integrity of potential treatment processes could well fall between the cracks. Existing law, like the Federal Insecticide Fungicide and Rodenticide Act or the VGP, does not cover instances in which biocide treatments are applied abroad inside ballast tanks but discharged in our waters when ballast water is discharged.

Both the Coast Guard's rulemaking and the EPA's renewal of the VGP provide an opportunity to coordinate agency actions, as well as to engage the states and the public. We believe that the Federal government needs to have a strong, national ballast management program in order to prevent new introductions, and assure environmental integrity of discharge. In the absence of a strong Federal standard, individual states have already enacted rules regulating ballast operations in their waters. Therefore, we encourage you work cooperatively to address such an important issue.

Because both the Coast Guard and the EPA each have individual mandates and each agency is in the process of moving forward on its own mission and policies, we would appreciate hearing from the Administration about how you are coordinating these agencies' activities. We believe the ultimate goal should be to have one, unified Federal policy that is comprehensive in its authority to address all facets of the ship ballast discharge problem.

We look forward to hearing a unified response from you about such an important issue.

Sincerely,



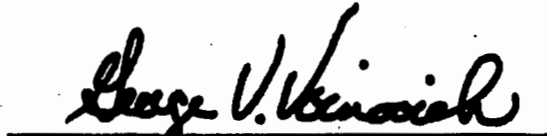
Susan M. Collins  
United States Senator



Carl Levin  
United States Senator



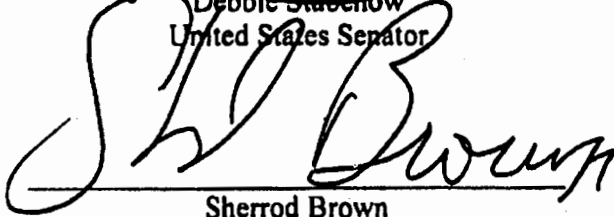
Charles E. Schumer  
United States Senator



George V. Voinovich  
United States Senator



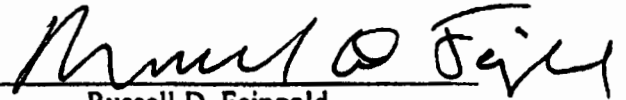
Debbie Stabenow  
United States Senator



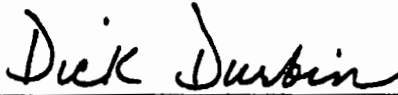
Sherrod Brown  
United States Senator



Herb Kohl  
United States Senator



Russell D. Feingold  
United States Senator



Richard J. Durbin  
United States Senator





**United States Environmental Protection Agency**

Office of Water  
Washington, DC 20460

U.S. Department of  
Homeland Security



**United States Coast Guard**  
Assistant Commandant for Marine Safety,  
Security and Stewardship  
Washington, DC 20593

DEC 18 2009

The Honorable Susan M. Collins  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

This is in response to your letter dated July 23, 2009, to Admiral Thad Allen, Commandant of the U.S. Coast Guard, Lisa Jackson, Administrator of the Environmental Protection Agency (EPA), Nancy Sutley, Chairman of the Council on Environmental Quality, and Dr. John Holdren, Director of the Office of Science and Technology Policy regarding federal agency coordination in preventing the introduction of aquatic nuisance species (ANS) through ship's ballast water. The Administration shares your concern regarding the environmental and economic impacts that can result from the introduction of aquatic nuisance species into U.S. waters. We echo your desire to have a strong federal ballast water management program which will reduce the risk of new introductions. In particular, the Coast Guard and EPA have worked very closely over the past several years on developing regulations and programs to address this issue. As you noted in your letter, the Coast Guard and EPA are implementing different legislation (National Aquatic Nuisance Prevention and Control Act (NANPCA) for the Coast Guard and the Clean Water Act (CWA) for the EPA).

Despite different implementing legislation, the Coast Guard and EPA have worked closely to harmonize, as appropriate, the proposed ballast water discharge standard regulations and the Vessel General Permit (VGP). EPA representatives from the Office of Water provided expert advice during the drafting of the Coast Guard's Ballast Water Discharge Standard Notice of Proposed Rulemaking (NPRM), which was released on August 27 of this year. The NPRM contains a two-phased approach. The first phase sets out the existing International Maritime Organization (IMO) standard and timetable for implementation, which will bring the United States into alignment with the global shipping community where vessel owners have already begun preparing to implement devices based on the IMO standard. The first phase is followed by establishment of a standard which is up to 1000 times more stringent than IMO if the Coast Guard determines that technology to achieve such a standard can practicably be implemented. Implementation of the phase two standard would potentially reduce inconsistencies between federal requirements and state laws applicable to ballast water discharges. In addition, to provide certainty for vessel owners who install ballast water treatment systems early, the NPRM includes a grandfathering provision of five years. The NPRM currently requires the Coast Guard to conduct practicability reviews of the proposed ballast water treatment systems every two years. The Coast Guard will work closely with EPA when conducting these reviews.

With respect to the VGP, Coast Guard assistance during its development in 2008 was instrumental in ensuring the VGP was, as appropriate, in line with existing Coast Guard regulations. EPA will continue to seek input and technical assistance from the Coast Guard as it examines options for the next VGP.

In addition, the Coast Guard and EPA continue to coordinate on other aspects of a ballast water management program. The goal is to effectively address the myriad challenges that ANS in ballast water present. Examples of such coordination include:

- A joint working group consisting of Coast Guard, EPA and other federal agency representatives and members of the scientific community and academia are developing ballast water treatment system verification protocols under the organizational auspices of the EPA's Environmental Technology Verification (ETV) Program. These protocols are designed to ensure a robust and aggressive type approval process that will maximize the probability that ballast water treatment systems which receive type approval are capable of meeting the targeted standard when installed and used on vessels.
- The Coast Guard's Environmental Standards Division is working with EPA's Office of Pesticide Prevention and Toxic Substances and Office of Water to prevent the potential for treatment of ballast water to result in adverse impacts to the environment and human health. We note that the VGP, in most cases, requires as a condition of coverage that ballast water biocides be registered under Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and, in all cases, requires that any discharged biocide or derivative not exceed specified levels. The VGP provisions apply to the discharge of ballast water biocide residues into U.S. waters, regardless of where the biocide was applied to the ballast tanks.
- The Coast Guard's Office of Vessel Activities and Judge Advocate General are working with the EPA Office of Water and Office of Enforcement and Compliance Assistance to develop coordinated compliance and enforcement frameworks for the VGP.

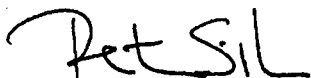
These examples underscore the continuing need for effective coordination, and going forward there are opportunities to complement these efforts in the context of a comprehensive national framework addressing ANS in ballast water. Ocean stewardship, as one example, is a high priority for the Administration. In June 2009, the President established an Interagency Ocean Policy Task Force to recommend a national ocean policy, a framework for policy coordination, an implementation strategy, and a recommended framework for effective coastal and marine spatial planning. The Task Force recently released for public review an interim report addressing the first three items. The interim report identifies Regional Ecosystem Protection and Restoration as one priority objective that would address, among other things, the "impacts of invasive species on ocean, coastal, and Great Lakes ecosystems, and a range of methodologies for control and prevention of these species." Further, the Task Force's proposals fully intend an effectively coordinated effort that engages the States and the public. While this is only the interim report of the Task Force that is out for public comment, it does highlight that it considered this an important issue that needs to be addressed.

Similarly, the Aquatic Nuisance Species Task Force (ANSTF), an interagency committee established by NANPCA and consisting of ten Federal agency representatives and 12 Ex-officio members drawn from State agencies, tribes, non-governmental organizations, industry groups, and academia, affords a mechanism for enhancing coordination of Federal efforts dealing with ANS with those of the State, local, private, and other sectors. The ANSTF identified in its 2007-2012 Strategic Plan the need to "support development, testing, and approval of ballast water treatment technologies."

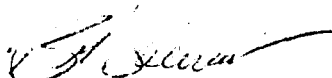
The Coast Guard and EPA will continue to work closely in the future to minimize the risk of introduction and spread of ANS. This cooperative effort, augmented with other Federal expertise and capabilities leveraged via the aforementioned interagency fora, provides substantial opportunities going forward for enhanced communication, coordination of Federal activities, and engagement of external customers and stakeholders to develop and implement a strong, national ballast water management program.

If we may be of further assistance, please contact the Office of Congressional and Intergovernmental Relations, U.S. EPA, at (202) 564-5200 or the Office of Congressional and Government Affairs, U.S. Coast Guard, at (202) 245-0520.

Sincerely,



Peter S. Silva  
Assistant Administrator  
Office of Water  
U.S. Environmental Protection Agency



RADM Brian Salerno  
Assistant Commandant for Marine Safety,  
Security and Stewardship  
U.S. Coast Guard

## United States Senate

WASHINGTON, DC 20510

March 27, 2010

Lisa Jackson  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Jackson:

We are writing to express our support for application submitted by the Southern Maine Regional Planning Commission (SMRPC) for funding under the U.S. Environmental Protection Agency's *Brownfields Coalition Assessment Grant* program.

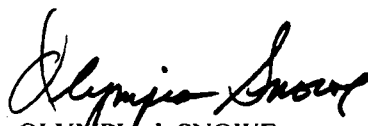
Southern Maine has a longstanding tradition of being a highly productive manufacturing region in our state. Unfortunately, this region has been devastated by major plant closures over the past year. In fact, in the last 12 months alone, the region has experienced the loss of more than 1,400 manufacturing jobs with a corresponding 1.5 million square feet of manufacturing space being vacated. While there has been substantial interest in reusing these facilities, many potentially viable plants are not being utilized because of a lack of environmental information available to prospective employers and developers.

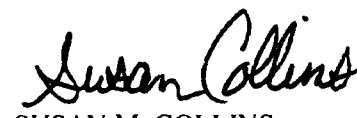
SMRPC is a recognized economic development leader, and is highly respected for its collaborative approaches. It has proven to be a vital partner with the EPA in assessing and mitigating brownfields projects. It received Brownfields Hazardous Substance Assessment Grants in 2004, 2006 and 2008; Brownfields Petroleum Assessment Grants in 2006 and 2008; Brownfields Revolving Loan Fund Grants in 2007 and 2009; as well as a supplemental Brownfields Revolving Loan Fund Grant in 2009. Utilizing these funds, SMRPC has completed a brownfields inventory containing over 300 potential brownfields sites within the region and its Brownfields Steering Committee identified 24 sites as top priority within the program. They completed the assessment, investigation, and remedial/reuse planning of six mill sites, referred two sites to the State Brownfields program, (which were successfully assessed), and are currently assessing and investigating other mill and industrial sites within the region.

Funding this proposal will provide the necessary resources for SMRPC to partner with the cities of Biddeford and Saco in an effort to meet the communities' needs to revitalize their extensive brownfields sites and provide a much needed boost to the regional economy. It is with this in mind that we lend our enthusiastic support to this proposal.

Thank you for your prompt attention to this matter. We urge your most careful consideration of this application, subject to all applicable laws and regulations, and ask that you please keep us informed of the status of the review process.

Sincerely,

  
OLYMPIA J. SNOWE  
United States Senator

  
SUSAN M. COLLINS  
United States Senator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 26 2010

The Honorable Susan M. Collins  
United States Senate  
Washington, D.C. 20510

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

Dear Senator Collins:

Thank you for your letter of March 27, 2010, supporting the Brownfields Grant Proposal from Southern Maine Regional Planning Commission (SMRPC). I appreciate your interest in the Brownfields Program and your support of SMRPC's proposal.

As you know, the Small Business Liability Relief and Brownfields Revitalization Act assists States and communities throughout the country in their efforts to revitalize and reclaim brownfields sites. This program is an excellent example of the success that is possible when people of all points of view work together to improve the environment and their communities.

Last year's application process was highly competitive, with EPA evaluating more than 600 grant proposals, including grant proposals for an additional \$100 million available through the American Recovery and Reinvestment Act (ARRA). From these applications, EPA funded more than 240 grants with general program funds and more than 140 grants with ARRA funds. We anticipate comparable interest in the brownfields grant program this year and look forward to supporting approximately 200 communities through the grant program in fiscal year 2010. We expect to announce this year's Brownfields Grants in spring 2010.

EPA's selection criteria for grant proposals are available in the *Proposal Guidelines for Brownfields Assessment, Revolving Loan Fund, and Cleanup Grants (August 2009)*, posted on our brownfields website ([www.epa.gov/brownfields](http://www.epa.gov/brownfields)). Each proposal will be carefully reviewed and evaluated by a selection panel that applies these objective criteria in this highly competitive program. Be assured that the grant proposal submitted by SMRPC will be given every consideration.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Raquel Snyder, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586.

Sincerely,

A handwritten signature in black ink that reads "Mathy Stanislaus". The signature is written in a cursive, flowing style.

Mathy Stanislaus  
Assistant Administrator

[illegible]

1. 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 26

WILLIAM W. GILLES, MARY  
LORE BROWN, OKLAHOMA  
SCOTT BROWN, MASSACHUSETTS  
JOHN VIGAN, ARIZONA  
GEORGE A. FORDYCKE, DELO  
JOHN ELLISON, NEVADA  
CHRISTY GRAHAM, SOUTH CAROLINA

United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

March 31, 2010

The Honorable Steven Chu  
Secretary  
U.S. Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585

The Honorable Lisa Jackson  
Administrator  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Secretary Chu and Administrator Jackson:

As you are aware from a recent investigation by the Government Accountability Office (GAO), the Energy Star program has shown itself to be vulnerable to fraud. The Energy Star program is a valuable method of informing American consumers about a wide array of energy-efficient products on the market, but it must be a trusted source of information to effectively accomplish this important task. The disappointing and alarming findings in the GAO report, combined with recent reviews by the Inspectors General for both the Department of Energy (DOE) and the Environmental Protection Agency (EPA), demand an urgent and strategic response to improve this program.

When I asked GAO to investigate whether Energy Star certifications were being prudently awarded to both companies and products based on vetted energy-efficiency claims, I wanted to ensure that the program's oversight safeguards were adequate to protect both consumers and taxpayers. GAO's investigation unfortunately demonstrates that the Energy Star program currently provides few safeguards and little oversight of manufacturers' energy-efficiency claims. Manufacturers' claims are often taken at face value with little or no independent third-party verification. As the GAO report demonstrates, the program's lack of rigorous internal controls exposes consumers and taxpayers to untenable levels of risk. This leads to taxpayers being fleeced twice, as consumers often elect to pay more for Energy Star rated products in order to achieve energy savings and are also footing the bill for taxpayer-funded credits and rebates to induce people to buy Energy Star certified products. At the same time, legitimate manufacturers of energy-efficient products may be undercut in the marketplace by companies that use the lax certification process to gain Energy Star status.

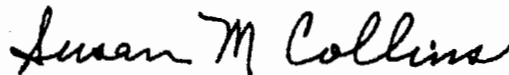
To respond to the results of this GAO investigation and others, DOE and the EPA must undertake significant and swift changes to address identified oversight gaps and to help restore public confidence in the Energy Star label. I am pleased that both agencies plan improvements to the certification process, including enhanced verification of energy-efficiency claims. Both agencies also are considering requiring that all products undergo pre-qualification testing, in accredited laboratories, before being eligible for certification under the Energy Star program.

I appreciate your timely response to the GAO investigation and request that you provide to the Committee a detailed plan, outlining the specific testing improvements and proposed time frames for completing these reforms. If other changes or adjustments are under consideration, please provide a detailed explanation of those proposals as well. Please provide these plans to my office no later than April 16, 2010.

Your prompt efforts to improve the Energy Star program are vital to ameliorate the challenges that plague the program. Otherwise, it cannot fulfill its important energy-saving mission and provide the confidence necessary to help consumers make informed choices.

If you have any questions please contact my Committee staff at (202) 224-4751.

Sincerely,

A handwritten signature in black ink that reads "Susan M. Collins". The signature is written in a cursive, flowing style.

Susan M. Collins  
Ranking Member



APR 14 2010



The Honorable Susan M. Collins  
Ranking Member  
Committee on Homeland Security and Government Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

Thank you for your March 31, 2010, letter regarding the GAO report on the ENERGY STAR program, and for your continued interest in this program. The U.S. Environmental Protection Agency (EPA) and the U.S. Department of Energy (DOE) share your desire to ensure the ENERGY STAR program remains an effective and trusted force in the market, delivering energy efficiency and greenhouse gas reductions. We take seriously the trust American consumers place in the ENERGY STAR label, and agree with you that steps must be immediately taken to ensure the integrity of the program.

For those reasons – even before the GAO report was released – efforts were underway at EPA and DOE to strengthen the ENERGY STAR program. We are pleased to report the agencies have accelerated those efforts. To demonstrate our effective actions, enclosed is an April 2, 2010, memo to Secretary Chu and Administrator Jackson, whose offices are directly responsible for the ENERGY STAR program.

The steps outlined in the memo are critical for maintaining the integrity of this program and will help continue its high rate of compliance. EPA and DOE have extensive procedures in place today to prevent and uncover fraud and abuse, including a broad infrastructure of controls, audits and other measures to ensure the ENERGY STAR name and logo are applied properly and consistently in the marketplace.

We are confident these steps will bolster public confidence in the ENERGY STAR label and ensure ENERGY STAR continues to deliver on its promise of greater energy efficiency and cost savings for American families.

We are happy to brief you and your staff on these efforts. Our staff will be in touch with your office to schedule this briefing.

Sincerely,

Gina McCarthy  
Assistant Administrator  
Office of Air and Radiation  
U.S. Environmental Protection Agency

Cathy Zoi  
Assistant Secretary  
Energy Efficiency and Renewable Energy  
U.S. Department of Energy

Enclosure





April 2, 2010



**MEMORANDUM**

**FROM:** Cathy Zoi  
Assistant Secretary  
U.S. Department of Energy

Gina McCarthy  
Assistant Administrator  
U.S. Environmental Protection Agency

**TO:** Steven Chu  
Secretary  
U.S. Department of Energy

Lisa P. Jackson  
Administrator  
U.S. Environmental Protection Agency

**RE:** Building a Stronger Energy Star Program

As you know, Energy Star began many years ago as a small voluntary effort to help consumers save money by making it easy for them to identify energy efficient products. The Energy Star is now one of the most recognized brands in America. Last year alone Americans saved \$17 billion on their energy bills with the help of Energy Star and, today, many states provide significant rebates to consumers for the purchase of Energy Star products.

Unfortunately, a recently released GAO Report has provided some compelling evidence that the measures we have in place to protect the value of the Energy Star label are simply insufficient. So, in response to the report, we have taken a number of clear, decisive and transparent steps to move Energy Star away from self-certification to a program that requires testing, review and approval of all products before they can earn the label. This means a rapid 180-degree shift in the way manufacturers apply for, earn and keep the Energy Star label on products sold to the American consumer. Our hope is that these actions, outlined below, will help reassure the public, Congress, manufacturers and other stakeholders that Energy Star remains a trusted brand and can be used to reliably identify energy-efficient products.

### Immediate Actions Taken:

- We temporarily shut down the pipeline for approvals of new Energy Star products. The web page notes that the automated qualification and self-certification system are temporarily unavailable while certification procedures are under review.
- The automated qualification system that existed for certain electronic product areas will not be reactivated. This system allowed GAO to receive electronic approval of products as well as access to the Energy Star label – without staff review. Never again will we allow a computer system to approve a product or provide access to the Energy Star label without proper staff scrutiny.
- The pipeline will be reopened only after the product review process has been strengthened. We will ensure that staff are available and trained appropriately to review and approve all applications submitted before the pipeline is reopened. We estimate that these improvements will be in place within a week.
- The Energy Star web page is being updated to clarify the new product review process. Partners have been informed that they must submit data showing that their product meets the set of clear, measurable energy efficiency program requirements outlined on the web page - including a lab report. Then these product submittals will be reviewed and approved by one of our Energy Star representatives who will officially notify the partner prior to any use of the Energy Star label.
- Manufacturers are being put on notice that independent testing of all new Energy Star products will be required no later than the end of this year, when an infrastructure of accredited labs is in place. Efforts are underway to phase in requirements for independent testing of all new Energy Star products, as well as requirements for labs and accreditation bodies, with full implementation as soon as practicable.
- Partners are being put on notice that all Energy Star product manufacturers must participate in an ongoing verification testing program to ensure continued compliance. This enhanced mandatory testing will complement our “off the shelf” and third-party testing of products bearing the Energy Star label.
- Mandatory participation will continue to be required in industry certification programs, when such testing is available.

As you well know, these steps complement recent actions we have taken to promote confidence in the Energy Star brand by strengthening product testing and enforcement. While no voluntary program can require its label to be affixed to all the most energy efficient products, we can - and we must - ensure that the products that bear our label are energy efficient and provide the expected cost savings.

- Compliance: We launched a new two-step process to immediately expand the testing of Energy Star qualified products. In fact, just last week we began testing of some of the most

commonly used appliances (freezers, refrigerator-freezers, washers, dishwashers, water heaters and room air conditioners) which account for more than 25 percent of a household's energy bill while we are developing a system to test all products that earn the Energy Star label. In this phase we will test approximately 200 basic models at third-party, independent test laboratories over the next few months.

- **Enforcement:** We have taken a series of actions in recent months to ensure compliance with both Energy Star and appliance efficiency standards, including taking action against 35 manufacturers in the past four months as well as the formation of a new enforcement team. To improve transparency and emphasize our renewed commitment to enforcement, we outlined a process for revoking the right to use the Energy Star label on the web page as part of our compliance and enforcement strategy. We also announced that we would be aggressively enforcing reporting requirements that manufacturers are required to submit to the Department of Energy certifying the energy use of residential appliance models and compliance with energy efficiency standards.

While the media attention has been difficult for all of us, we know that public scrutiny provides a strong disincentive for companies to skirt the system. At the same time, we should remind ourselves and consumers that the number of actual violations within the Energy Star Program has been quite small, especially given that more than 40,000 individual products carry the Energy Star label. In fact, in 2009, EPA's independent Inspector General (IG) conducted a "spot check" of the program, testing 60 Energy Star products, and found that 98% of the products tested met or exceeded Energy Star requirements.

One of the challenges faced by the program has been the vacant Climate Protection Partnership Division Director position at EPA. While EPA's Energy Star staff is doing a great job and working hard to fill the gap, we know that the program deserves to have a permanent director. This position has been posted inside and outside the agency and we now have applications in hand. We will do our best to fill this important position as quickly as possible. In the meantime, a senior manager will be detailed to help lead the program on a full time basis until the new director is on board.

Please let us know if you have any questions or concerns. We thank you all for your support and want to assure you that Energy Star will emerge from this period stronger than ever before.

## United States Senate

WASHINGTON, DC 20510

November 1, 2010

Lisa P. Jackson  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, D.C. 20460

Dear Administrator Jackson,

We are writing to express our support for the grant application being submitted by the Town of Canton to the U.S. Environmental Protection Agency for funding under the *Brownfields Cleanup Grant* program.

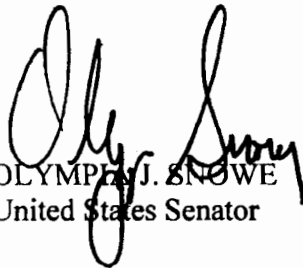
The village of Canton formed around the damming of Whitney Brook nearly 200 years ago and a tannery at the dam served as a major employer for over 150 years, however the very nature of the tannery process has left a variety of hazardous chemicals onsite. The abandoned mill structure burned to the ground in 1981, and residual structural elements were buried into the foundation. The dam fell into decades of neglect and disrepair, requiring the flood gates to remain open, resulting in lower lake levels which raised issues with lakefront property owners, including a decline in the fishery and recreational quality of the lake. Moreover, condemnation of the dam by the State of Maine forced the Town of Canton to acquire the property through eminent domain for dam safety and public water supply concerns. Accordingly, the former Brindis Leather Company setting includes not only threats to the Town's water supply due to degradation of the dam, but also the potential for human exposure to 150 years of mishandled hazardous tannery chemicals.

Funding this proposal will provide the necessary resources for the Town of Canton to clean-up the former tannery properties and revitalize the center of Canton with a municipal park, green space and a public boat ramp. Additionally, the Town has received a CDBG grant to assist with a new dam and will be leveraging other funding sources to maximize redevelopment of the site and restore the safety and security of the water supply. According to the town, a Brownfields grant will reduce or eliminate the potential for human exposure to polycyclic aromatic hydrocarbons (PAHs), lead and arsenic, identified as likely onsite hazards during the Maine Department of Environmental Protection's Analysis of Brownfield Clean up Alternatives (ABCA).

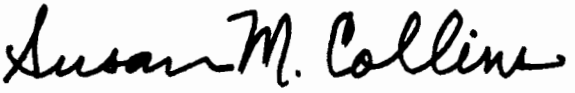
The Town of Canton has a demonstrated history of partnering with the Androscoggin Valley Council of Governments, the neighboring Town of Hartford and numerous partners to bring stability to Lake Anasagunticook, and brownfields remediation is a key component of reclaiming the village area and successfully integrating this recreational asset as an economic resource for the region. It is with this in mind that we lend our support to this proposal.

Thank you for your time and effort on behalf of the Town of Canton. We urge your most careful consideration of this application, subject to all applicable laws and regulations, and ask that you please keep us informed of the status of the review process. In addition to notifying our DC staffs, please notify our state staffs, Mark Kontio (Snowe) at (207)945-0432 and Carlene Tremblay at (207)784-6969 when a final determination has been made.

Sincerely,



OLYMPIA J. SNOWE  
United States Senator



SUSAN M. COLLINS  
United States Senator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

DEC - 7 2010

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

The Honorable Susan M. Collins  
United States Senate  
Washington, D.C. 20510

Dear Senator Collins:

Thank you for your letter of November 1, 2010, supporting the Brownfields Grant Proposal from the Town of Canton. I appreciate your interest in the Brownfields Program and your support of this proposal.

As you know, the Small Business Liability Relief and Brownfields Revitalization Act assists states and communities throughout the country in their efforts to revitalize and reclaim brownfields sites. This program is an excellent example of the success that is possible when people of all points of view work together to improve the environment and their communities.

Last year's application process was highly competitive, with EPA evaluating more than 600 grant proposals. From these proposals, EPA was able to announce the selection of approximately 300 grants.

EPA's selection criteria for grant proposals are available in the *Proposal Guidelines for Brownfields Assessment, Revolving Loan Fund, and Cleanup Grants (August 2010)*, posted on our brownfields web site at [www.epa.gov/brownfields](http://www.epa.gov/brownfields). Each proposal will be carefully reviewed and evaluated by a selection panel that applies these objective criteria in this highly competitive program. Be assured that the grant proposal submitted by the Town of Canton will be given every consideration.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Amy Hayden, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0555.

Sincerely,

A handwritten signature in black ink that reads "Mathy Stanislaus". The signature is written in a cursive, flowing style.

Mathy Stanislaus  
Assistant Administrator

AL-07-000 #6206

722110

## United States Senate

WASHINGTON, DC 20510

March 28, 2007

3-28-07

LACORR WW

ALUE

CC 4  
John  
file  
Catherine  
Chris  
Kevin

The Honorable George W. Bush  
President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington DC 20500

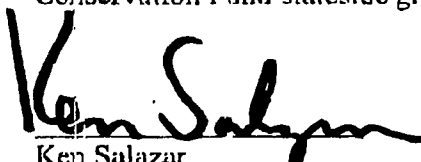
Dear President Bush:

We are writing to express our concern over your request to eliminate all funding for the Land and Water Conservation Fund (LWCF) stateside grant program in the FY2007 budget. We find the elimination of the funding for this program unacceptable.

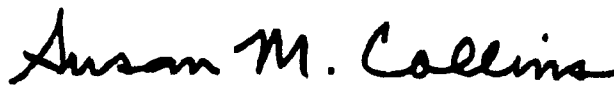
In 2006, a bipartisan group that included forty eight of our fellow Senators joined us in requesting that funding be restored to the LWCF stateside grant program. Few federal investments positively touch more American lives than projects funded through the stateside LWCF. Since its inception, the LWCF has underwritten the development of more than 40,000 state and local park and recreation projects in every geographic region of the U.S. The demand for new parkland acquisition and outdoor recreation facilities remains strong. In fact, in 2006, four-fifths of the states reported unmet funding needs exceeding 80%.

Congress established the LWCF in 1964 to provide money to federal, state and local governments to purchase land, water and wetlands for the benefit of all Americans. Specifically, the LWCF Act directs Congress to allocate royalties from offshore oil and gas development for the purchase of land, waterways and wetlands and provides matching grant assistance for state and community open space and recreation projects. It is significant that a considerable amount of the income going to the Fund has come about through the leasing of offshore oil rights. In fact, many of us have supported offshore leasing because we know that while one resource is being used another is being protected.

We urge you to support retaining the funding for the Land and Water Conservation Fund stateside grant program in the FY2007 budget.



Ken Salazar  
United States Senator



Susan M. Collins  
United States Senator

**THE WHITE HOUSE OFFICE  
REFERRAL**

**April 03, 2007**

**TO:** ENVIRONMENTAL PROTECTION AGENCY

**ACTION REQUESTED:** INFO AND FILE COPY ONLY/NO ACTION NECESSARY

**DESCRIPTION OF INCOMING:**

**ID:** 722110

**MEDIA:** FAX

**DOCUMENT  
DATE:** MARCH 28, 2007

**TO:** PRESIDENT BUSH

**FROM:** KEN SALAZAR  
UNITED STATES SENATE  
WASHINGTON, DC 20510

**SUBJECT:** URGES THE PRESIDENT TO RETAINING THE FUNDING FOR THE LAND  
AND WATER CONSERVATION FUND STATESIDE GRANT PROGRAM IN  
THE FY07 BUDGET

**COMMENTS:**

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PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9  
WORKING DAYS OF RECEIPT, UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE  
UNDERSIGNED AT 456-2590.

RETURN **ORIGINAL** CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT)  
TO: DOCUMENT TRACKING UNIT, ROOM 84, OFFICE OF RECORDS MANAGEMENT - THE WHITE  
HOUSE, 20500



# THE WHITE HOUSE DOCUMENT MANAGEMENT AND TRACKING WORKSHEET



**DATE RECEIVED:** 4/3/2007

**CASE ID:** 722110

**NAME OF CORRESPONDENT:** THE HONORABLE KEN SALAZAR

**SUBJECT:** URGES THE PRESIDENT TO RETAINING THE FUNDING FOR THE LAND AND WATER CONSERVATION FUND STATESIDE GRANT PROGRAM IN THE FY07 BUDGET

ROUTE TO: AGENCY/OFFICE	(STAFF NAME)	ACTION		DISPOSITION		
		CODE	DATE	TYPE RESPONSE	CODE	COMPLETED
LEGISLATIVE AFFAIRS	CANDI WOLFF	ORG	4/3/2007			
<b>ACTION COMMENTS:</b>						
OFFICE OF MANAGEMENT AND BUDGET		A	4/3/2007			
<b>ACTION COMMENTS:</b>						
COUNCIL ON ENVIRONMENTAL QUALITY		I	4/3/2007		C	
<b>ACTION COMMENTS:</b>						
ENVIRONMENTAL PROTECTION AGENCY		I	4/3/2007		C	
<b>ACTION COMMENTS:</b>						
<b>ACTION COMMENTS:</b>						

**COMMENTS:**

**MEDIA:** FAX

**USER CODE:** 1 ADDL  
SIGNEE

**ACTION CODES:**

A - APPROPRIATE ACTION  
B - RESEARCH AND REPORT BACK  
D - DRAFT RESPONSE  
I - INFO COPY/NO ACT NECESSARY  
R - DIRECT REPLY W/ COPY

**TYPE  
RESPONSE:**

TYPE RESPONSE =  
INITIALS OF SIGNER  
NRN = NO RESPONSE  
NEEDED

**DISPOSITION**

**DISPOSITION  
CODES:**

A - ANSWERED/  
ACKNOWLEDGED  
C - CLOSED  
X - INTERIM REPLY

**COMPLETED DATE:**

COMPLETED = DATE OF  
ACKNOWLEDGEMENT OR CLOSE-  
OUT DATE (MM/DD/YY)

**SCANNED  
BY  
ORM**

REFER QUESTIONS AND ROUTING UPDATES TO DOCUMENT TRACKING UNIT (ROOM 84, OEOB) EXT-62590 KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES AND SEND COMPLETED RECORD TO OFFICE OF RECORDS MANAGEMENT

SUSAN M. COLLINS  
MAINE

461 DIRKSEN SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-1904  
(202) 224-2523  
(202) 224-2683 (FAX)

## United States Senate

WASHINGTON, DC 20510-1904

AL-05-001-1090  
COMMITTEES  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS, CHAIRMAN  
ARMED SERVICES  
SPECIAL COMMITTEE  
ON AGING

160 Main Street  
Biddeford, ME 04005  
July 21, 2005

Mr. John Reeder  
Acting Associate Administrator  
of Congressional and Intergovernmental Relations  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W., Room 3442 North  
Washington, DC 20460

Dear Mr. Reeder:

gxl gxl  
Senator Collins has been contacted by [redacted] and [redacted] of Ferry Beach, ME with a request for assistance. Mrs. [redacted] indicates that they are in the process of trying to sell their home and have an interested buyer who has 4 small children. Mrs. [redacted] further indicates that the potential buyers would like to utilize the side yard as play space for the children, however, due to the presence of some dune grass, have reportedly been directed by the DEP that this is not possible. Mrs. [redacted] reports that they have placed a deposit on a new home, however, this purchase is contingent on the selling of their current home. She further reports that the sale of her home will fall through if the interested buyer is not permitted to utilize the side yard. Mrs. [redacted] has also indicated that this situation is causing a great deal of stress and is anxious for assistance in having it resolved.

Senator Collins has a strong desire to be responsive to constituent requests. With this in mind, I have taken liberty of bringing this matter to your attention. Please review Mrs. [redacted] letter and provide any appropriate assistance to assure that her concerns are addressed.

On behalf of Mr. and Mrs. [redacted], thank you for your attention to this matter. I look forward to your written response. If you have any questions, or need additional information, please do not hesitate to contact me at (207) 283-1101.

Sincerely,



Christina Comenos  
Staff Assistant to  
Susan M. Collins  
United States Senator

Enclosure

cc: Jeff Madore, Division Director, Division of Land Resource Regulations, DEP



UNITED STATES SENATOR • MAINE  
**SUSAN COLLINS**  
PRIVACY AUTHORIZATION

Date: 7-20-05

To Whom It May Concern:

In accordance with the requirements of the Privacy Act of 1974, which protects my confidential records from unauthorized release, I am taking this opportunity to give Senator Susan Collins and her staff permission to receive information in my records relative to her inquiry on my behalf.

EX 6

Name (Please Print) 7Jerry BeachMe. 04072

Address

EX 6

Telephone Number

EX 6

Date of Birth

EX 6

Social Security Number

EX 6

Signature

19 July 2005

Senaton Collins  
160 Main Street  
Biddeford, Me 04005

Dear Senaton Collins.

I am writing in regards to a  
house we own at

Ferry Beach, Saco, Me.

As my husband is ninety-two  
and no longer able to keep up  
with the maintenance - we  
put it on the market - we have  
a buyer, with 4 small children  
and they would like to be  
able to use the side yard as  
an area for the children to  
play in - well there is some  
dune grass, and the DEP

will not allow it.

Now we have a granite wall, Surf St, our house driveway - it is down the St. from the beach.

In no way is this grass helping any thing - such as beach erosion -

I sincerely hope you can help us - in this matter

Sincerely yours



UNITED STATES SENATOR • MAINE  
**SUSAN COLLINS**  
FAX COVER SHEET



YORK COUNTY OFFICE  
160 MAIN STREET  
BIDDEFORD, ME 04005

*ccv  
John  
Judy  
Jim W.  
Chris  
Catherine  
Betsy*

PHONE: (207) 283-1101 FAX: (207) 283-4054

To: John Reeder  
Address: \_\_\_\_\_  
FAX #: (202) 501-1519  
From: Christina Comenas  
Time: \_\_\_\_\_  
Date: 7-21-05  
PAGES (including this cover sheet): 5

COMMENTS:

Constituent Inquiry -  
original is in the mail. Please call w/ any  
questions.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 1  
1 CONGRESS STREET, SUITE 1100  
BOSTON, MASSACHUSETTS 02114-2023

August 4, 2005

The Honorable Susan M. Collins  
United States Senator  
160 Main St.  
Biddeford, ME 04005

OFFICE OF THE  
REGIONAL ADMINISTRATOR

Attention: Christina Comenos

Dear Senator Collins:

Thank you for your letter of July 21, 2005 on behalf of your constituents, \_\_\_\_\_ and \_\_\_\_\_ of Ferry Beach, Maine, regarding dune grass on their property. Activities impacting dune grass in Maine are not regulated by the EPA, but are covered under the Maine Natural Resources Protection Act (38 MRSA §480-D) and under the Maine Department of Environmental Protection (DEP) rules, Chapter 355: *Coastal Sand Dune Rules*.

Diane Gould, a coastal biologist with the EPA New England staff, has contacted Linda Kokemuller of the Division of Land Resource Regulations at the Maine DEP Southern Maine Regional Office regarding the Shorey's concerns. Ms. Kokemuller noted that the \_\_\_\_\_ sent their letter to your office before requesting a permit pre-application meeting with the DEP office in Portland. Since that time, a meeting has been scheduled at which the \_\_\_\_\_ will have an opportunity to discuss what can be done on their property according to the DEP rules. Should you wish to contact Ms. Kokemuller, her number is (207) 822-6329.

If you or your staff should require additional assistance, please contact Rudy Brown in the Office of Government Relations at (617) 918-1031 or Dr. Gould at (617) 918-1569.

Sincerely,

A handwritten signature in black ink, appearing to read "R. W. Varney", followed by a long horizontal flourish.

Robert W. Varney  
Regional Administrator

cc: Jeff Madore, Division Director, Division of Land Resource Regulations, DEP

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Help us serve you better. If you need to call us regarding this correspondence in the future, please reference AL-05-001-1090.

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AL-06-000-8948

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUN - 8 2006

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Susan Collins  
Chair  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Madam Chair:

I am transmitting the Environmental Protection Agency's (EPA) response to the Government Accountability Office (GAO) report recommendation concerning monitoring efforts for environmental assessment purposes of the Great Lakes Basin. The report is entitled Great Lakes: Organizational Leadership and Restoration Goals Need to Be Better Defined for Monitoring Restoration Progress (GAO-04-1024). EPA prepared this response pursuant to 31 U.S.C. 720.

GAO Recommendation

To facilitate the coordination of monitoring activities by the various Federal, state and other organizations within the Great Lakes Basin, GAO recommends that the EPA Administrator direct the Great Lakes National Program Office (GLNPO) to develop adequate controls for the inventory of monitoring systems to ensure that inventory data is accurate, current and complete so as to facilitate users' efforts to coordinate monitoring activities.

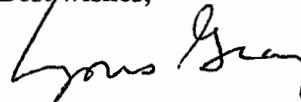
EPA Response

EPA agrees with this recommendation. GLNPO is managing the process for the inventory of monitoring systems with the Canadian Government and affected members of the Great Lakes Regional Collaboration (GLRC). The U.S. and Canada coordinate environmental issues in the Great Lakes Basin through the Binational Executive Committee (BEC), and it was the BEC that directed the preparation of the Binational Monitoring Inventory. The GLRC represents the U.S. constituency that contributes to the inventory and includes, among others, Federal agencies, Great Lakes states, Tribes and local communities with an interest in the Great Lakes region.

On behalf of the U.S. participants, GLNPO has established a process for the affected GLRC members to certify that data in their respective monitoring systems are accurate, current and complete. First, involved GLRC organizations will provide information on their monitoring programs in the Monitoring Inventory and will complete the initial submissions of data. Second, GLNPO will then review the data submitted, compile information on identified errors and incomplete data, and distribute a summary of GLNPO's findings to the submitters. Third, participants will provide additional and/or corrected information and certify the completeness, accuracy and timeliness of the data. GLNPO will continue to encourage GLRC members to complete their contribution to the Monitoring Inventory and to incorporate the Inventory into the Great Lakes restoration and protection strategy. This process and review is scheduled for completion by the Summer of 2006. To update and ensure the accuracy of the monitoring data, GLNPO - working with its Canadian counterpart and affected GLRC members - will manage the inventory process annually.

Thank you for the opportunity to respond to the recommendation. If you have any questions, please contact me or your staff may contact Tom Dickerson in EPA's Office of Congressional and Intergovernmental Relations at 202-564-3638.

Best wishes,

A handwritten signature in cursive script, appearing to read "Lyons Gray".

Lyons Gray  
Chief Financial Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUN - 8 2006

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Susan Collins  
Chair  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Madam Chair:

I am transmitting the Environmental Protection Agency's (EPA) response to the Government Accountability Office (GAO) report recommendation on developing a more efficient strategy for reviewing tribal requests. The report is entitled Indian Tribes: EPA Should Reduce the Review Times for Tribal Requests to Manage Environmental Programs (GAO-06-95). EPA prepared this response pursuant to 31 U.S.C. 720.

GAO Recommendation

To better facilitate the timely review of tribal requests for TAS (treatment in the same manner as a state) status for program authorization and to increase the transparency of the process to tribes, GAO recommends that the Administrator of EPA develop a written strategy, including estimated time frames, for its tribal request review process and for providing periodic updates to the tribes on the status of their requests.

EPA Response

EPA has established a sound process for reviewing tribal applications to administer environmental programs. The Agency is pleased the GAO found that "EPA generally followed its established processes for reviewing and approving tribal requests for TAS..." We are committed to following the processes, which have withstood challenges in the courts successfully.

EPA agrees with GAO's recommendation. Despite our noted track record of successful approvals, we agree more could be done to improve the timeliness of EPA's reviews and to improve communication with tribes concerning their TAS requests. EPA will address these

concerns in a strategy we are now developing. The strategy will be designed to improve the timeliness and efficiency of EPA's reviews and provide regular, useful feedback to applicant tribes concerning the status of their requests.

Thank you for the opportunity to respond to the recommendation. If you have any questions, please contact me or your staff may contact Steve Kinberg in EPA's Office of Congressional and Intergovernmental Relations at 202-564-5037.

Best wishes,

A handwritten signature in black ink, appearing to read "Lyons Gray". The signature is fluid and cursive, with the first name "Lyons" being more prominent than the last name "Gray".

Lyons Gray  
Chief Financial Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 31 2006

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Susan Collins  
Chair  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Madam Chair:

I am transmitting the Environmental Protection Agency's (EPA) response to the Government Accountability Office's (GAO) report recommendations on assessing risks for new and existing chemicals used in commerce. The report is entitled Chemical Regulation: Options Exist to Improve EPA's Ability to Assess Health Risks and Manage Its Chemical Review Program (GAO-05-458). EPA prepared this response pursuant to 31 U.S.C. 720.

The Chemical Review Program, implemented under the Toxic Substances and Control Act (TSCA), involves over 82,000 chemicals listed on the TSCA inventory and receives approximately 1,500 new chemical notices each year. The program works efficiently and effectively to target chemical data gathering and assessment efforts in a manner that balances environmental and human health protection, internal resource constraints, external expectations and regulated community burdens. It is within this framework that EPA responds to the report recommendations.

GAO Recommendation

GAO recommends that EPA Administrator develop and implement a methodology for using information collected through the HPV (High Production Volume) Challenge Program to prioritize chemicals for further review and to identify and obtain additional information needed to assess their risks.

EPA Response

EPA agrees with the recommendation and has taken steps to implement a prioritization process developed by EPA's National Pollution Prevention and Toxics Advisory Committee (NPPTAC).

The NPPTAC recommended an HPV chemical screening process to help the Office of Pollution Prevention and Toxics (OPPT) order its review of the data in Challenge Program submissions and to provide structure to a review process for determining hazard potential for substances sponsored in the HPV Challenge Program. Currently, EPA is implementing this two-tiered approach. Tier I is an automated process in which key endpoints data are screened against predetermined criteria to establish a logical order in which OPPT will review the chemicals/categories. In Tier II, OPPT will conduct a more in-depth review of the data in the Challenge Program submissions for quality and completeness and develop a screening level hazard assessment based on Screening Information Data Set (SIDS) and non-SIDS hazard data provided by the sponsors. If OPPT identifies additional data needs as a result of this process, it will assess the most appropriate way to obtain the additional information at that time.

#### GAO Recommendation

GAO recommends the EPA Administrator promulgate a rule under section 8 of TSCA requiring chemical companies to submit to EPA copies of any health and safety studies, as well as other information concerning the environmental and health effects of chemicals, that they submit to foreign governments on chemicals that the companies manufacture or process in, or import to, the United States.

#### EPA Response

As noted in EPA's response of May 26, 2005, to the draft GAO report (see pages 62-63 of the final report), the Agency has concerns regarding the recommendation. The recommendation suggests a potentially broad-ranging information collection rule. While such a reporting rule may bring useful information, other more targeted approaches for collecting information which are directed at EPA's domestic priorities, rather than foreign government mandates, may be a more prudent and efficient use of government and affected party resources.

#### GAO Recommendation

GAO recommends the EPA Administrator develop a strategy for improving and validating, for regulatory purposes, the models that EPA uses to assess and predict the risks of chemicals and to inform regulatory decisions on the production, use and disposal of the chemicals.

#### EPA Response

EPA agrees with the importance of validation efforts for models used for the assessment of chemicals. EPA continues to follow the draft Agency guidance, developed by the Council on Regulatory Environmental Monitoring, regarding the development, evaluation and application of environmental models. The draft guidance is entitled "Draft Guidance on the Development, Evaluation, and Application of Regulatory Environmental Models" (November 2003).

### GAO Recommendation

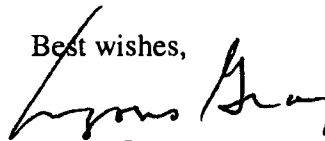
GAO recommends the EPA Administrator revise its regulations to require that companies reassert claims of confidentiality submitted to EPA under TSCA within a certain time period after the information is initially claimed as confidential.

### EPA Response

EPA will initiate a pilot process, using existing authorities, to review selected older submissions containing confidential business information (CBI) claims. The pilot will be used to determine benefits, burdens and utility of a broader CBI reassertion program. Based on this review, and in light of other regulatory priorities, the Agency will consider whether rulemaking is appropriate to maximize the benefits of the reassertion program, including benefits to the public, without imposing unnecessary burden on either industry or the Agency.

Thank you for the opportunity to respond to the recommendations. If you have any questions, please contact me or have your staff contact Lauren M. Mical in the Office of Congressional Affairs at (202) 564-2963.

Best wishes,

A handwritten signature in black ink, appearing to read "Lyons Gray", written in a cursive style.

Lyons Gray  
Chief Financial Officer



AL-06-001-3841

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 21 2006

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Susan Collins  
Chair  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Madam Chair:

I am transmitting the Environmental Protection Agency's (EPA) response to the Government Accountability Office (GAO) report recommendations on the goals and implementation status of the Great Lakes Initiative (GLI). The report is entitled Great Lakes Initiative: EPA Needs to Better Ensure the Complete and Consistent Implementation of Water Quality Standards (GAO-05-829). EPA prepared this response pursuant to 31 U.S.C. 720.

GAO Recommendation

To better ensure the full and consistent implementation of the GLI and improve measures for monitoring progress toward achieving GLI's goals, GAO recommends that the EPA Administrator direct EPA Region 5, in coordination with Regions 2 and 3, to issue a permitting strategy that ensures a more consistent approach to controlling mercury by the states.

EPA Response

EPA strongly supports the consistent implementation of GLI guidance among the states to protect water quality in the Great Lakes. A critical component consistent to regulation of mercury discharges has been the adoption by all states in the Great Lakes Basin of water quality criteria consistent with the GLI criteria. In addition, many states in the Great Lakes Basin have adopted mercury permitting strategies for implementing their EPA-approved water quality criteria for mercury and NPDES program requirements. Currently, states are implementing controls on mercury discharges consistent with their strategies and other NPDES program requirements, achieving a significant level of consistency among the states.



EPA does not believe that devoting resources to development of an EPA permitting strategy would result in significantly greater consistency among the states. Rather than focusing on development of an EPA permitting strategy, Region 5 states have requested EPA assistance in supporting associated implementation efforts, such as evaluating and determining compliance with pollutant minimization plans and assessing what approaches are most effective in reducing mercury loading by point source discharges. We also believe that the Great Lakes states can share experiences with each other about effective control measures to reduce mercury level and further enhance consistency.

The Agency intends to reconvene the EPA GLI Workgroup to focus on implementation issues related to mercury, including ensuring state consistency in implementing the GLI regulations and supporting implementation of state programs to meet water quality standards.

Region 5 has three ongoing initiatives supporting implementation of mercury standards in the Great Lakes region. First, Region 5 provides oversight for mercury requirements in state-issued permits and supports state-development of standard language for implementing mercury Pollutant Minimization Programs (PMP) in National Pollutant Discharge Elimination System (NPDES) permits, as appropriate. Region 5 is scheduled to complete development of recommended standard language for PMPs by December 2006. Second, also by December 2006, Region 5 will develop tools for the states to assess compliance with mercury PMPs effectively. Third, Region 5 will examine and determine the most effective approaches for reducing mercury loadings from point sources in the Great Lakes Basin and provide these findings to the EPA GLI Workgroup (which includes EPA Regions 2 and 3 and EPA Headquarters) for consideration.

#### GAO Recommendation

To better ensure the full and consistent implementation of GLI and improve measures for monitoring progress toward achieving GLI's goals, GAO recommends that the EPA Administrator direct EPA Region 5, in coordination with Regions 2 and 3, to ensure the GLI Clearinghouse is fully developed, maintained, and made available to the Great Lakes states to assist them in developing water quality standards for pollutants covered by GLI.

#### EPA Response

EPA agrees with and has implemented the recommendation. Currently, the GLI Clearinghouse has a fully-developed database framework and web page containing criteria information and supporting data made available to EPA by the Great Lakes states. The Clearinghouse became fully accessible to the Great Lakes states and the public in May 2006.

The Clearinghouse now includes links to the state fact sheets, which describe how the data were used by the states in deriving their criteria and guidance values. The

Clearinghouse is designed to upload continually new criteria information submitted by states. While this information is currently uploaded by EPA (some states do not have the necessary capability), we plan for direct uploads by the states in the future.

#### GAO Recommendation

To better ensure the full and consistent implementation of GLI and improve measures for monitoring progress toward achieving GLI's goals, GAO recommends that the EPA Administrator direct EPA Region 5, in coordination with Regions 2 and 3, to gather and track information that can be used to assess the progress of implementing GLI and the impact it has on reducing pollutant discharges from point sources in the Great Lakes Basin. In particular, EPA should consider collecting better information on the impact of discharger programs to minimize pollutants that are exceeding GLI standards.

#### EPA Response

EPA agrees with the recommendation and intends to develop and implement projects to improve monitoring progress of GLI implementation. For example, EPA intends to track the issuance of permits with mercury limits and PMP requirements for publicly owned treatment works (POTWs) in the Great Lakes Basin and evaluate permit compliance data on mercury concentrations in POTW sludge and the quantity of sludge generated to determine sludge mercury levels for POTWs. Currently, EPA tracks effluent quality to determine whether PMPs affect POTWs' ability to comply with water quality requirements. On an ongoing basis, EPA will use sludge and effluent data in conjunction with PMP implementation data to assess effectiveness of various approaches in reducing POTW mercury loadings.

With respect to other bio-accumulative chemicals of concern, EPA Regions will assess and evaluate the change in effluent limits and monitoring requirements in point source permits after state adoption of GLI requirements. We intend to complete this evaluation by March 2007.

#### GAO Recommendation

GAO recommends that the EPA Administrator direct EPA Region 5 to increase efforts to resolve the disagreements with the State of Wisconsin over the implementation of provisions to ensure the equitable and timely implementation of GLI among all Great Lakes states.

#### EPA Response

EPA agrees with the recommendation. EPA and the State of Wisconsin are cooperating to address implementation of GLI regulations. Descriptions of these issues and actions follow.

Aquatic Life Criteria for copper, nickel, endrin and selenium – At the request of Region 5, the Wisconsin Department of Natural Resources (DNR) prepared a plan and schedule for correcting its criteria to comply with the requirements of the GLI. Based on the schedule provided, Wisconsin DNR will have a final rule to the Natural Resources Board for approval with the appropriate criteria for copper, nickel, endrin and selenium by December 2006.

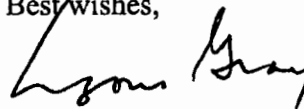
Total Maximum Daily Load (TMDL) Provisions – EPA found that Wisconsin adopted provisions consistent with the Guidance for determining wasteload allocations, but that Wisconsin's statutes and rules lacked provisions corresponding to the TMDL provisions of the Guidance. As a result, EPA disapproved the provisions and promulgated replacement language. Despite the absence of state rules or statutes analogous to the TMDL provisions of the Guidance, Wisconsin is able to list waters and develop TMDLs as evidenced by its submittal of TMDLs as required by section 303(d) of the Clean Water Act. Region 5 will continue to monitor Wisconsin's TMDL activities and ensure consistent implementation with the GLI.

Intake Pollution Provisions and Exemption for Water Quality-Based Effluent Limits for Cooling Water Discharges – Region 5 and Wisconsin DNR are working to resolve the issues. Wisconsin DNR indicated that no permits have been backlogged due to the disapproval.

Procedures for Determining Whole Effluent Toxicity (WET) Reasonable Potential – Under a grant from EPA, the Wisconsin DNR analyzed its WET program to address EPA's disapproval of the WET implementation procedures. Wisconsin DNR submitted a draft report to EPA in April 2006. Region 5 will continue to work with the State of Wisconsin to support the State's efforts to revise its rules, as necessary, to assure that the State's WET procedures are at least as protective as the GLI procedures.

Thank you for the opportunity to respond to the recommendations. If you have any questions, please contact me or have your staff contact Lauren M. Mical in EPA's Office of Congressional and Intergovernmental Relations at 202-564-2963.

Best wishes,



Lyons Gray  
Chief Financial Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

DEC 15 2006

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Susan Collins  
Chair  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Madam Chair:

I am transmitting the Environmental Protection Agency's (EPA) response to the Government Accountability Office (GAO) report recommendations on improving grants management practices. The report is entitled Grants Management: EPA Has Made Progress in Grant Reforms but Needs to Address Weaknesses in Implementation and Accountability (GAO-06-625). EPA prepared this response pursuant to 31 U.S.C. 720.

GAO Recommendation

GAO recommends that the Administrator of EPA direct the Office of Grants and Debarment take the following actions:

- develop a performance measure and a performance target for ongoing monitoring, and
- consider requiring project officers and grant specialists to document ongoing monitoring in the Agency's grants database so that the managers can monitor compliance Agencywide.

EPA Response

EPA has required ongoing/baseline monitoring on all grants since 2003 as stated in the Policy on Compliance, Review and Monitoring (EPA Order 5700.6). However, GAO and our own reviews found that baseline monitoring was not well documented. To address this issue, we will revise the Order to include a clear performance measure and target for baseline monitoring and require that baseline monitoring be documented in EPA's grants database (Integrated Grants Management System) for every award. We anticipate that the revised Order will go into effect January 2007.

### GAO Recommendation

GAO recommends that the Administrator of EPA direct the Office of Grants and Debarment to take the following actions:

- establish a standard for the timely closeout of grants and ensure that EPA's monitoring and other policies are consistent with that standard,
- develop a performance measure and target for the grant closeout standard,
- develop a strategy for addressing grantees' late submission of required final documentation, and
- issue revised policies and procedures to ensure proper closeout of grants.

### EPA Response

We agree with this recommendation and are strengthening the closeout performance. We believe that the current closeout targets, 90% grants closed that ended in the prior Fiscal Year and 99% of older grants closed, are an effective standard. However, our own analysis indicates that EPA is not meeting these targets. In response, we are strictly monitoring closeout performance and sending bimonthly reports to the Agency's Deputy Administrator that display closeout performance by office. The Deputy Administrator meets with the Agency's senior managers periodically to review Agency performance measures, including closeout data.

In 2007, we will develop a process to track the receipt of closeout documentation (e.g., the final technical report) from recipients. This process will allow the Agency to monitor the timeliness of the receipt of these documents so that we may take appropriate action, as necessary. In addition, in 2007, we will revise closeout policies to incorporate the 90%/99% closeout standard and to streamline and standardize EPA's closeout process. This policy revision will highlight the importance of holding recipients accountable for timely submission of closeout documents.

### GAO Recommendation

GAO recommends that the Administrator of EPA direct the Office of Grants and Debarment to develop a performance measure and target that better reflects the new environmental results policy.

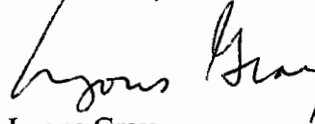
### EPA Response

EPA has recognized the need to incorporate environmental results issues in grants management practices, and addressed it in the Grants Management Plan in 2003. The Plan contains an environmental results performance measure and outcome component. According to the plan, the outcomes can be stated qualitatively or quantitatively. Further improvements were made in 2005 when EPA issued a new environmental results policy (EPA Order 5700.7) that emphasizes the importance of quantitative outcomes in grant workplans.

EPA completed a recent compliance review for 8 out of 9 elements in EPA Order 5700.7. One element (whether recipients reported on environmental results in their progress reports) could not be assessed because not enough time has elapsed since the Order went into effect. The review found close to 100% compliance with 7 out of 8 elements of the policy. The one area significantly below 100% was the existence of quantitative outcomes in grant workplans. As a result, in 2007, we will establish, in consultation with Agency program offices, a new environmental results performance measure that focuses on including quantitative outcomes in grant workplans to the maximum extent practicable.

Thank you for the opportunity to respond to the recommendations. If you have any questions, please contact me or have your staff contact Lauren Mical in EPA's Office of Congressional and Intergovernmental Relations at 202/564-2963.

Best wishes,

A handwritten signature in black ink, appearing to read "Lyons Gray", written in a cursive style.

Lyons Gray  
Chief Financial Officer

**United States Senate**

WASHINGTON, D.C. 20510

May 15, 2007

CCU  
Catherine  
Chen  
fil

The Honorable Stephen L. Johnson  
Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-0001

Dear Administrator Johnson:

We are writing to request that the Environmental Protection Agency (EPA) update our staff on the Agency's management of its library system, including EPA's commitment not to close any more EPA libraries or dispose of any more library materials until Congress has had an opportunity to look into this issue further.

High-quality information is the foundation for reasoned government decisions to protect public health, promote sound economic growth, and preserve our nation's natural heritage. Since 1971, EPA has used federal taxpayers dollars to build one of the nation's preeminent library networks for achieving these goals. Today, federal and state government officials, scientists, businesses, academics, concerned citizens, and others rely on EPA to provide such information.

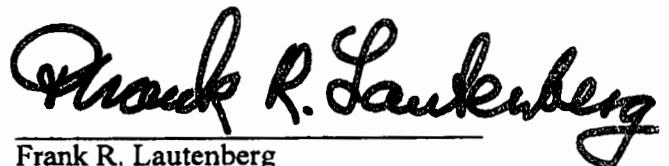
We have reviewed, with some concern, reports and testimony that EPA has recently and rather rapidly closed libraries or reduced access to library material. We support increased access to Agency information and believe that this should occur through a thoughtful, well-planned process that includes consultation with stakeholders, including Congress. We were heartened that you testified before the Environment and Public Works Committee on February 6, 2007 that EPA would not close other libraries or dispose of additional documents pending further Congressional inquiry, which is still on-going.

We wish to follow-up with EPA on its plans for addressing some of the concerns voiced with the Agency's management of its libraries and to better understand the status of EPA's actions to improve the access of its information, including digitizing material, the current quality of library service, Agency plans to improve the service, and funding issues. Please contact Erik Olson or Grant Cope at (202) 224-8832 to set up a mutually convenient briefing time.

Sincerely,



Barbara Boxer



Frank R. Lautenberg




Joseph Lieberman



Susan Collins



Tom Harkin



Jack Reed



# United States Senate

WASHINGTON, DC 20510

November 5th, 2007

Stephen Johnson  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW, Room 3426  
Washington, DC

Dear Administrator Johnson,

We are writing to request that you expeditiously approve the petition for the Northeast Regional Mercury Total Maximum Daily Load (TMDL).

The Northeast states of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, and New York have drastically reduced mercury pollution in recent years. For example, between 1998 and 2002 state initiatives to reduce mercury pollution from municipal waste combustors and medical waste incinerators prevented 8,000 pounds of mercury pollution. Indeed, nearly all in-region sources of mercury have been eliminated in the Northeast. While our States' efforts are laudable and have produced tangible results, our federal standards have been virtually stagnant and maintained the status quo. Mercury is atmospherically deposited and it is becoming increasingly evident that for our states to comply with Section 303(d) of the Clean Water Act strong federal action that encompasses all of the States is essential.

The National Academy of Sciences has confirmed scientific research demonstrating that maternal consumption of unsafe levels of mercury in fish can cause serious neurodevelopment harm resulting in children that suffer from learning disabilities, poor motor function, mental retardation, seizure disorders and cerebral palsy. This clearly impacts the health of our region, as well our economic wellbeing. Currently, six of the seven Northeast states have statewide freshwater fish consumption advisories directly as a result of mercury pollution. Currently 10,000 bodies of water as well as 46,000 miles of rivers in the Northeast are listed as impaired for fish consumption due to mercury pollution.

On October 24<sup>th</sup>, the Northeast States submitted the Northeast Regional TMDL, which states, "The Northeast region's ability to achieve the calculated TMDL allocations is dependent on the adoption and effective implementation of national and international programs to achieve necessary reductions in mercury emissions." As you know, mercury pollution originates from two major sources: wastewater discharge and atmospheric deposition. The Clean Air Mercury Rule (CAMR) insufficiently reduces emissions through atmospheric deposition and amounts to only 70 percent reduction by 2018. The CAMR will not allow our states to move forward with this TMDL. We therefore urge

you to approve the Northeast Regional Mercury TMDL and again ask you to strongly consider reevaluating the CAMR and promulgate national rules consistent with the region's TMDL.

Thank you for our consideration of our request, and we look forward to hearing your response.

Sincerely,

William Smyth

Patrick Leahy

Judd Gregg

John E. Sununu

Ben Sanders

Susan Collins

Jon Lieber

Jack Reed

Stephen Hune

Chris Drab



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 1  
1 CONGRESS STREET, SUITE 1100  
BOSTON, MASSACHUSETTS 02114-2023

December 6, 2007

OFFICE OF THE  
REGIONAL ADMINISTRATOR

The Honorable Susan M. Collins  
United States Senate  
413 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Senator Collins:

Thank you for your letter of November 5, 2007, requesting that EPA expeditiously approve the Northeast Regional Mercury TMDL and expressing your views on EPA's Clean Air Mercury Rule (CAMR). EPA has almost completed review of the Northeast Regional Mercury TMDL and we expect to issue a decision within the next few weeks.

Concerning the Clean Air Mercury Rule (CAMR), it is important to note that the U.S. has made significant progress to reduce the U.S. contribution to the worldwide environmental mercury burden. In the last 15 years, EPA has focused most of its mercury reduction efforts on large point sources of air emissions, such as municipal waste combustors, medical waste incinerators, hazardous waste combustors, and more recently, chlor-alkali facilities, and electric utilities. Under the CAA, EPA has substantially limited U.S. emissions of mercury to the atmosphere through Maximum Achievable Control Technology (MACT) and solid waste combustion/incineration regulations. As a result, the U.S. has cut its air emissions of mercury by almost 50% from stationary sources since 1990. In March 2005, Administrator Stephen Johnson signed the Clean Air Mercury Rule (CAMR) and this rule will reduce mercury emissions from coal-fired power plants across the United States by approximately 70% at full implementation. Currently, EPA, states, and sources are working together and making significant progress.

Again, thank you for your letter. Should you have any questions or concerns, you may contact me or your staff may contact Rudy Brown at (617) 918-1031 or Michael Ochs at (617) 918-1066 in the Office of Government Relations.

Sincerely,

A handwritten signature in black ink, appearing to read "R. W. V.", followed by a long horizontal flourish.

Robert W. Varney  
Regional Administrator

AL-08-000-0901

**THE WHITE HOUSE OFFICE  
REFERRAL**

**January 15, 2008**

**TO:** ENVIRONMENTAL PROTECTION AGENCY

**ACTION REQUESTED:** INFO AND FILE COPY ONLY/NO ACTION NECESSARY

**DESCRIPTION OF INCOMING:**

**ID:** 742243

**MEDIA:** LETTER

**DOCUMENT DATE:** DECEMBER 04, 2007

**TO:** PRESIDENT BUSH

**FROM:** JACK REED  
UNITED STATES SENATE  
WASHINGTON, DC 20510

**SUBJECT:** URGES THE PRESIDENT TO CAREFULLY EVALUATE AND  
RESPOND TO UNINTENDED PUBLIC HEALTH AND SAFETY RISKS  
THAT COULD RESULT FROM THE INCREASE USE OF ETHANOL  
AS A GENERAL PURPOSE TRANSPORTATION FUEL

**COMMENTS:**

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PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9  
WORKING DAYS OF RECEIPT, UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE  
UNDERSIGNED AT 456-2590.

RETURN **ORIGINAL** CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT)  
TO: DOCUMENT TRACKING UNIT, ROOM 84, OFFICE OF RECORDS MANAGEMENT - THE WHITE  
HOUSE, 20500

# THE WHITE HOUSE DOCUMENT MANAGEMENT AND TRACKING WORKSHEET



DATE RECEIVED: 12/19/2007

CASE ID: 742243

NAME OF CORRESPONDENT: THE HONORABLE JACK REED

SUBJECT: URGES THE PRESIDENT TO CAREFULLY EVALUATE AND RESPOND TO UNINTENDED PUBLIC HEALTH AND SAFETY RISKS THAT COULD RESULT FROM THE INCREASE USE OF ETHANOL AS A GENERAL PURPOSE TRANSPORTATION FUEL

ROUTE TO: AGENCY/OFFICE	(STAFF NAME)	ACTION		DISPOSITION	
		CODE	DATE	CODE	COMPLETED
LEGISLATIVE AFFAIRS	CANDI WOLFF	ORG	12/19/2007		
ACTION COMMENTS:					
DOE		R	1/15/08		
ACTION COMMENTS:					
EPA		R	1/15/08	C	
ACTION COMMENTS:					
ACTION COMMENTS:					
ACTION COMMENTS:					

COMMENTS:

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MEDIA: LETTER

USER CODE: 4 ADDL  
SIGNEES

## ACTION CODES:

- A - APPROPRIATE ACTION
- B - RESEARCH AND REPORT BACK
- D - DRAFT RESPONSE
- I - INFO COPY/NO ACT NECESSARY
- R - DIRECT REPLY W/ COPY

## TYPE RESPONSE:

TYPE RESPONSE =  
INITIALS OF SIGNER  
NRN = NO RESPONSE  
NEEDED

## DISPOSITION

### DISPOSITION CODES:

A - ANSWERED/  
ACKNOWLEDGED  
C - CLOSED  
X - INTERIM REPLY

### COMPLETED DATE:

COMPLETED = DATE OF  
ACKNOWLEDGEMENT OR CLOSE-  
OUT DATE (MM/DD/YY)

REFER QUESTIONS AND ROUTING UPDATES TO DOCUMENT TRACKING UNIT (ROOM 437, EEOB) EXT-62590 KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES AND SEND COMPLETED RECORD TO OFFICE OF RECORDS MANAGEMENT

# United States Senate

WASHINGTON, DC 20510

742243

December 4, 2007

President George W. Bush  
The White House  
Washington, D.C. 20500

Dear Mr. President:

We write to urge your Administration to carefully evaluate and respond to unintended public health and safety risks that could result from the increased use of ethanol as a "general purpose" transportation fuel. You have called for a national effort to reduce consumers' demand for gasoline by 20 percent in ten years, in part through increased use of renewable transportation fuels such as ethanol. In addition, the Senate, as part of its pending energy legislation, has adopted language that would significantly increase renewable fuel use – particularly the use of ethanol – over the next two decades.

Currently, under federal law, the maximum level of ethanol permitted to be blended with gasoline for use in conventional gasoline-powered vehicles, equipment and engines is 10 percent – so-called E10. There is an interest in increasing ethanol blends to 15 percent (E15), 20 percent (E20), or even 30 percent through an expedited process at the Environmental Protection Agency (EPA) pursuant to a fuels waiver under Section 211(f)(4) of the Clean Air Act. Currently, there is little available data on the emission, air quality, public health, or safety impacts of mid-level ethanol. Therefore, to avoid unintended harm to air quality, to consumers and to gasoline-powered vehicles and equipment, the following concerns must be addressed before EPA takes such a step:

- On-road and non-road engines, vehicles, and equipment (other than flexible fuel motor vehicles) are not designed to be operated on ethanol blends higher than E10. The available evidence indicates that lawn mowers, chain saws, snowmobiles, recreational boats, motorcycles, and non-flex fuel motor vehicles will produce higher evaporative and engine exhaust emissions if ethanol blends higher than E10 are used.
- Ethanol blends higher than E10 are more corrosive on certain metals and plastics used in many of these products and will cause many gasoline-powered engines to run hotter and at higher RPM levels. In turn, this will result in adverse impacts on starting, durability, operation, performance, and operator safety, due to the degradation of critical components and safety devices.


To ensure there will not be damage to air quality or to consumers or their gasoline-powered products, there must be a comprehensive and scientific analysis of the impacts of ethanol blends higher than E10 in all gasoline-powered on-road and non-road engines, equipment, and vehicles. As part of any Section 211(f)(4) waiver decision for ethanol blends higher than E10, the EPA analytical process must, at a minimum, include the following:


- Testing of a representative and diverse mix of all gasoline-powered engines, vehicles, and equipment – on-road and non-road, large and small -- in which these higher ethanol blends will be used to assess potential increased emissions and long-term durability;
- Coordination of the analytical process by EPA with representatives of all stakeholders in this process, including at a minimum renewable fuel producers and marketers, on-road and non-road vehicle, equipment, and engine manufacturers, and public safety and environmental protection advocates;
- An analysis of the ability of the current wholesale and retail motor fuel distribution system to accommodate different levels of ethanol blends if blends higher than E10 are not suitable for use in all on-road and non-road gasoline-powered engines;
- Public notice and comment of all proposed EPA actions to consider or approve ethanol blends higher than E10, including, if necessary, public hearings; and,
- Final action by EPA to either approve or deny a petition to introduce into commerce ethanol blends higher than E10, along with publication of the agency's rationale for its decision.

We request information on all EPA's and the Department of Energy's (DOE) proposed or existing test programs and evaluations of the impacts of operating gasoline-powered on-road and non-road vehicles, engines, and equipment with ethanol blends higher than E10. Before these test programs and evaluations are implemented, EPA and DOE must provide a meaningful opportunity for comment and input from all stakeholders.

We look forward to working with you on these important issues. Thank you for your consideration of this request.

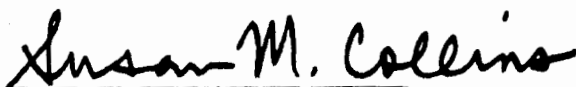
Sincerely,

  
Jack Reed

  
James M. Inhofe

  
Benjamin L. Cardin

  
Bernard Sanders

  
Susan M. Collins

cc: Administrator Johnson  
Secretary Bodman

JUL 23 2008 12:01PM

SENATOR COLLINS

NO. 108

P. 2

415 DIRKSEN SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-1804  
(202) 224-2623  
(202) 224-2683 (FAX)

AL-08-000-9794

COMMITTEES:  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS,  
RANKING MEMBER  
ARMED SERVICES  
SPECIAL COMMITTEE  
ON AGING

# United States Senate

WASHINGTON, DC 20510-1904

One City Center, Stop 23  
Portland, ME 04101  
July 21, 2008

Ms. Stephanie Daigle  
Associate Administrator for Congressional  
1200 Pennsylvania Avenue, NW, Room 3426 ARN  
Washington, DC 20460

Dear Ms. Daigle:

Senator Collins has been contacted by Mr. *SM* of Maine with a request for assistance. Mr. *SM* indicates that while working for the U.S. Environmental Protection Agency (EPA) during law school, he became interested in applying for full-time jobs with the agency. Mr. *SM* is concerned that his attempts to apply for certain positions he is qualified for have resulted in denials based on technical grounds. Mr. *SM* would like to take the Civil Service exam in an effort obtain the necessary requirements to apply for positions within the EPA. He requests clarification of the requirements needed to become eligible for employment with the EPA. Additionally, Mr. *SM* requests instructions for the hiring procedures.

Senator Collins has a strong desire to be responsive to constituent requests; with this in mind, please review this matter and provide a response that addresses Mr. *SM*'s concerns regarding the EPA's hiring requirements and procedures.

Thank you in advance for your assistance with this matter. If you have any questions or require additional information, please contact me at (207) 780-3575 or [Jennifer\\_Logan@collins.senate.gov](mailto:Jennifer_Logan@collins.senate.gov).

Sincerely,



Jennifer E. Logan  
Staff Assistant  
Susan M. Collins  
United States Senator



PRINTED ON RECYCLED PAPER



**Logan, Jennifer (Collins)**

---

From:  
Sent: Monday, July 21, 2008 1:51 PM  
To: Logan, Jennifer (Collins)  
Subject: Re: US Environmental Protection Agency

Dear Ms. Logan,

Thank you for contacting me. Essentially, I worked at the EPA during law school and was interested in applying for full time jobs with them after graduating and passing the bar. When I went online and attempted to apply for jobs, there was always some condition that I was unable to fulfill (i.e. current fed. gov. employee, U.S. war veteran, etc). Despite the fact that I felt somewhat qualified for some positions that I applied for, I was denied the ability to apply on technical and not substantive grounds. Then, when my mother ran into Ms. Duddy at the recent fundraiser, she mentioned that there were civil service exams that one could take that would make me eligible for some of these positions. I was interested in the procedure for taking that/those exams, so that I might get a second chance at applying for some of these jobs (generally speaking, attorney positions in and around the NYC area, working for the U.S. EPA).

Thank you very much for your time,

On Mon, Jul 21, 2008 at 9:56 AM, Logan, Jennifer (Collins) <[Jennifer\\_Logan@collins.senate.gov](mailto:Jennifer_Logan@collins.senate.gov)> wrote:

Dear Mr.

It is my understanding that you are seeking clarification regarding the EPA's hiring procedures for civilian employees. Please forward any questions you may have concerning the EPA's hiring procedure and requirements. I will gladly forward your message to the EPA Congressional Liaison for a response.

I look forward to hearing from you.

Sincerley,

Jennifer Logan

Jennifer E. Logan

Staff Assistant to

U.S. Senator Susan M. Collins

A L-18-000-1525

SUSAN M. COLLINS  
MAINE

413 DIRKSEN SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-1904  
(202) 224-2523  
(202) 224-2693 (FAX)

**United States Senate**  
WASHINGTON, DC 20510-1904

COMMITTEES:  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS,  
RANKING MEMBER  
APPROPRIATIONS  
ARMED SERVICES  
SPECIAL COMMITTEE  
ON AGING

January 19, 2010

The Honorable Lisa Jackson  
Administrator  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

The Honorable Peter Orszag  
Director  
The Office of Management and Budget  
725 17th Street, NW  
Washington, DC 20503


Dear Administrator Jackson and Director Orszag:

I am writing about Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) provided to the Environmental Protection Agency (EPA) by the American Recovery and Reinvestment Act (ARRA). A provision in ARRA requires that the EPA Administrator reallocate CWSRF and DWSRF funds if projects are not under contract or construction by February 17, 2010. I strongly support this provision and will oppose any attempts to change it.

The state of Maine will completely meet the deadline for its CWSRF and DWSRF contracts and construction. In fact, the Maine DWSRF program had all of its projects under contract by the end of August 2009. Both Maine programs have many additional shovel-ready projects that could be funded with reallocated funds. Thus, I urge you to reallocate CWSRF and DWSRF unobligated ARRA funds quickly to provide continued stimulus to the economy. I also urge you to take into consideration states like Maine, which have already demonstrated that they can expend this infrastructure money in a targeted and timely manner.

My office will be able to provide a list of specific shovel-ready Maine projects in the coming weeks. You can contact me directly or Amy Carroll in my office for further information about these projects. Ms. Carroll is at 202-224-2523 or [amy\\_carroll@collins.senate.gov](mailto:amy_carroll@collins.senate.gov). Thank you for your attention to this matter.

Sincerely,

  
Susan M. Collins  
United States Senator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 22 2010

OFFICE OF  
WATER

The Honorable Susan M. Collins  
United States Senate  
Washington, D.C. 20510-1904

Dear Senator Collins:

Thank you for your letter of January 19, 2010, to Administrator Lisa Jackson and OMB Director Peter Orszag, supporting the provision in the American Recovery and Reinvestment Act of 2009 (ARRA) requiring the Environmental Protection Agency (EPA) to reallocate State Revolving Fund (SRF) funds if projects are not under contract or construction by February 17. EPA's Office of Water manages the State Revolving Funds so I have been asked to respond on their behalf.

I want to report the exciting news that all States have complied with the February 17 deadline. All States certified to EPA that 100% of their projects are under contract or construction and therefore reallocation will not be necessary. Additional information is available on our website at <http://www.epa.gov/water/eparecovery>.

Thank you for your interest in the SRF programs and the important role they can play in promoting economic recovery and building lasting and productive water infrastructure across the country. The many communities who have received assistance for their ARRA projects, along with the States and EPA, can take pride in the jobs today and the legacy for the future that their effective work has contributed to. If you have further questions, please contact me or your staff may call Greg Spraul, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-0255.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter S. Silva", is written over a horizontal line.

Peter S. Silva  
Assistant Administrator



AL-10-000-8814

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUN - 3 2010

OFFICE OF  
CIVIL RIGHTS

The Honorable Susan Collins  
Ranking Member  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

I am pleased to send you the enclosed copy of the U.S. Environmental Protection Agency's (EPA) Fiscal Year 2009 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174.

This report provides information regarding the number of cases arising under the respective areas of law cited in the No FEAR Act where discrimination was alleged; the amount of money required to be reimbursed by EPA to the Judgment Fund in connection with such cases; the number of employees disciplined for discrimination, retaliation, harassment or any other infractions of any provision of law referred to under the Act; an analysis of trends and knowledge gained; and recommendations.

An identical letter has been sent to each entity designated to receive this report as listed in Section 203 of the No FEAR Act. The U.S. Attorney General, the Chair of the U.S. Equal Employment Opportunity Commission, and the Director of the U.S. Office of Personnel Management will also be sent a copy of the report.

If you have any questions, please contact me or your staff may call Clara Jones in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3701.

Sincerely yours,

A handwritten signature in black ink, which appears to read "Karen D. Higginbotham", is written over a horizontal line.

Karen D. Higginbotham  
Director

Enclosure



OFFICE OF CIVIL RIGHTS

# U.S. ENVIRONMENTAL PROTECTION AGENCY

Fiscal Year 2009

Annual Report to Congress  
pursuant to the  
Notification and Federal Employee  
Antidiscrimination and Retaliation  
Act of 2002

## TABLE OF CONTENTS

I. Executive Summary .....	1
II. Background .....	2
III. Data .....	3
IV. Analysis of Trends, Causal Analysis and Practical Knowledge Gained Through Experience .....	6
V. Adjustment to Budget .....	7
VI. Actions Planned or Taken to Improve Complaint or Civil Rights Programs.....	8
APPENDIX 1 No Fear 2009 Fiscal Year Totals.....	10
APPENDIX 2 Prevention of Sexual Harassment Policy Statement.....	24
APPENDIX 3 EEO Policy Statement.....	25

## **I. EXECUTIVE SUMMARY**

The U.S. Environmental Protection Agency (EPA or Agency) provides its Annual Report to Congress as required by Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 ("No FEAR Act"), Public Law 107-174. As required, this report includes information related to the number of cases in Federal court pending or resolved in fiscal year (FY) 2009 and, in connection with those cases, their disposition; reimbursement(s) to the Judgment Fund; the number of employees disciplined and the nature of the disciplinary action taken.

During FY 2009, there were 11 cases pending before Federal courts. Within these cases, there were 10 claims of violation of Title VII; 3 claims of violations of the Rehabilitation Act; and 4 claims of violation of the Age Discrimination in Employment Act. Two cases were settled. Of the 9 remaining cases not settled during the reporting period, one involved a finding of no discrimination for the Agency; 3 cases are on appeal; and 5 are in varying phases of the pre-trial process.

There were no disciplinary actions taken in connection with any federal case pending or resolved in FY 2009 brought under applicable provisions of federal anti-discrimination laws and/or Whistleblower Protection laws; or for any conduct that is inconsistent with these laws or for conduct that constitutes any prohibited personnel practice.

In 2009, the EPA significantly improved the average processing time for all complaints of discrimination. A decrease of 157 days (from an average of 393 days in FY 2008 to an average of 236 days in FY 2009) is a 40% reduction in average processing time. The EPA continues to aggressively pursue the effective use of (ADR) as a means for settlement of EEO complaints. ADR was offered 85 times in the informal phase of the complaint process.

During FY 2009, EPA's Administrator, Lisa P. Jackson, signed a new Agency EEO policy. This new policy embodies the Agency's commitment to:

- ✓ ensure that all programs to recruit, hire, train, develop, promote, reward, and discipline employees are conducted in a fair and consistent manner on the basis of merit;
- ✓ resolve workplace conflicts in a prompt, impartial, confidential, nondiscriminatory, and constructive manner, and without fear of reprisal; and
- ✓ educate managers, supervisors, and employees of their rights and responsibilities under Federal law.

The Agency's Office of Civil Rights (OCR) has hired additional staff, increased technical training, and improved case management technologies for the Employment Complaints Resolution Staff (ECRS). These measures have enabled ECRS to achieve impressive results through improved processing times and enhanced quality of EEO complaint adjudications, as well as increased efficiency and improved quality of complaint intake, tracking, and case management.

## **II. BACKGROUND**

On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," or, more commonly, the No FEAR Act. One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." Public Law 107-174, Summary. In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination." Public Law 107-174, Title I, General Provisions, section 101(1).

Section 203 of the No FEAR Act requires that each Federal agency submit an annual Report to Congress not later than 180 days after the end of each fiscal year. Agencies must report on the number of Federal court cases pending or resolved in each fiscal year and arising under each of the respective areas of law specified in the Act in which discrimination or retaliation was alleged. In connection with those cases, agencies must report the status or disposition of the cases; the amount of money required to be reimbursed to the judgment fund; and the number of employees disciplined. Agencies must also report on any policies implemented related to appropriate disciplinary actions against a Federal employee who discriminated against any individual, or committed a prohibited personnel practice; any employees disciplined under such a policy for conduct inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws, and an analysis of the data collected with respect to trends, causal analysis, in addition to other information.

The Act imposes additional duties upon Federal agency employers intended to reinvigorate their longstanding obligation to provide a work environment free of discrimination and retaliation. The additional obligations contained in the No FEAR Act can be broken down into five categories.

- A Federal agency must reimburse the Judgment Fund for payments made to employees, former employees, or applicants for Federal employment because of actual or alleged violations of Federal employment discrimination laws, Federal whistleblower protection laws, and retaliation claims arising from the assertion of rights under those laws.
- An agency must provide annual notice to its employees, former employees, and applicants for Federal employment concerning the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws.
- At least every two years, an agency must provide training to its employees, including managers, regarding the rights and remedies available under the employment discrimination and whistleblower protection laws.



- An agency must post quarterly on its public Web site summary statistical data pertaining to EEO complaints filed with the agency.

The President delegated responsibility to the Office of Personnel Management (OPM) for issuance of regulations governing implementation of Title II of the No FEAR Act. OPM published final regulations on the reimbursement provisions of the Act on May 10, 2006; final regulations to carry-out the notification and training requirements of the Act were published on July 20, 2006; and the final regulations to implement the reporting and best practices provisions of the No FEAR Act on December 28, 2006. The EEOC published its final regulations to implement the posting requirements of Title III of the No FEAR Act on August 2, 2006. The EPA has prepared this report based on the provisions of the No FEAR Act, OPM and EEOC's final regulations.

### **III. DATA**

#### **a. Civil Cases**

Section 203(a)(1) of the No FEAR Act requires that agencies include in their Annual Report "the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged." Section 724.302 of OPM's final regulations on reporting and best practices clarifies section 203 (1) of the No FEAR Act stating that agencies report on the "number of cases in Federal Court [district and appellate] pending or resolved...arising under each of the respective provisions of the Federal Antidiscrimination laws and Whistleblower Protection Laws applicable to them...in which an employee, former Federal employee, or applicant alleged a violation(s) of these laws, separating data by the provision(s) of law involved."

During FY 2009, there were a total of 11 cases pending before Federal courts. Among these cases, there were 10 claims of violation of Title VII; 3 claims of violations of the Rehabilitation Act; and 4 claims of violation of the Age Discrimination in Employment Act.

Two cases were settled. Of the 9 cases not settled during the reporting period, one involved a finding of no discrimination for the Agency; 3 are on appeal; and 5 are proceeding at different stages of the pretrial process.

#### **b. Reimbursement to the Judgment Fund**

OPM regulations state that the U.S. Department of the Treasury's Financial Management Service (FMS) will provide notice to a Federal agency's Chief Financial Officer within 15 business days after payment from the Judgment Fund. The agency is required to reimburse the Judgment Fund within 45 business days after receiving the notice from FMS or contact them to make arrangements in writing for reimbursement.

Of the 11 cases noted above, 3 cases involve payment to the Judgment Fund. Two cases involving Title VII claims were settled in this reporting period. One case included payment of \$45K, with \$29K specifically designated for attorney's fees. The other settlement included payment of \$100K with no specific amount designated for payment of attorney's fees. In the third case, the Agency reimbursed the Judgment Fund for a payment of \$100K in attorney's fees. This payment was the result of an order to pay by the presiding judge.

**c. Disciplinary Actions (5 C.F.R. § 724.302 (a)(3) & (5))**

There were no employees disciplined in FY 2009 in connection with any cases described in paragraph (a) above, or for any other conduct that is inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws or for conduct that constitutes prohibited personnel practices.

**d. Final Year-End Data Posted Under Section 301(c)(1)(B)**

The final year-end data posted pursuant to section 301(c)(1)(B) of the No FEAR Act is included in Appendix 2.

The final year-end data indicates that during FY 2009, there were 77 new administrative complaints of discrimination filed by 71 employees or applicants for employment. Within the total inventory of complaints for FY 2009 (171), OCR conducted 124 pre-complaint counselings; 73 investigations; and closed 53 cases. This includes 18 dismissals and 18 final agency decisions. There were no findings of discrimination.

FY 2009 complaint totals can be found in their entirety at Appendix 1 of this report.

**e. Policy Description on Disciplinary Actions (5 C.F.R. § 724.302(a)(6))**

Section 203(a)(6) of the No FEAR Act requires that agencies include in their Annual Report to Congress a detailed description of the policy implemented by the agency relating to disciplinary actions imposed against a Federal employee who discriminated against any individual in violation of any of the laws cited under section 201(a)(1) or (2), or committed a prohibited personnel practice that was revealed in the investigation of a complaint alleging a violation of any of the laws cited under section 201(a)(1) or (2). Further, the Act requires that, with respect to each such law, the Federal agency report on the number of employees who were disciplined in accordance with such policy and the specific nature of the disciplinary action taken. OPM's final regulations on Reporting and Best Practices published on December 28, 2006, define discipline as "any one or a combination of the following actions: reprimand, suspension without pay, reduction in grade or pay or removal." OPM expects Federal agencies to report disciplinary action taken whether or not there is a formal finding of discrimination.

All EPA supervisors and management officials are responsible for taking appropriate corrective actions for which they have been delegated authority and for recommending

to higher level officials disciplinary action considered appropriate in other cases. EPA's policies and procedures for taking disciplinary action are contained in EPA Order 3110.6B, *Adverse Actions*, EPA Order 3120.1B, *Conduct and Discipline*, EPA Order 3120.2, *Conduct and Discipline Senior Executive Service* and in the applicable collective bargaining agreements. Actions in response to findings of discrimination may range from informal corrective actions such as a written warning to more formal disciplinary actions such as a suspension without pay or removal.

During FY 2009, EPA's Administrator, Lisa P. Jackson, signed a new Agency EEO policy. This new policy contained several affirmations directed towards achieving the Agency's vision for effective EEO and a workplace free of discrimination, harassment and reprisal. These affirmations included the Administrator's commitment to:

- Ensure that all programs to recruit, hire, train, develop, promote, reward, and discipline employees are conducted in a fair and consistent manner on the basis of merit. Each employee will be regarded fairly and treated with dignity and respect.
- Maintain a work environment free from unlawful discrimination, reprisal and harassment. To do otherwise is simply not an option. It is totally unacceptable and will not be tolerated. Managers and supervisors will continually be held accountable for their responsibility to identify and correct discriminatory policies, practices and behaviors and for taking prompt and appropriate action to ensure that the work environment is free of unlawful discrimination, reprisal and/or harassment.
- Provide reasonable accommodations for qualified applicants and employees with disabilities.
- Seek to resolve workplace conflicts in a prompt, impartial, confidential, nondiscriminatory, and constructive manner, and without fear of reprisal. Every employee is encouraged to use the Alternative Dispute Resolution (ADR) process as a valuable tool in resolving workplace disputes and complaints of discrimination; and when appropriate, managers and supervisors shall fully participate in the ADR process.
- Educate managers, supervisors, and employees of their rights and responsibilities under Federal law. Equal opportunity is good business and it is the law.

This policy demonstrates the Agency's unwavering commitment to providing employees a discrimination free workplace. The 2009 EPA EEO Policy can be found in its entirety at Appendix 3.

Additionally, the Office of Civil Rights' standard operating plan (for the re-dress of allegations of discrimination) provides for a prompt, fair and impartial review, and adjudication of any allegation of discrimination; further demonstrating the Agency's

commitment to equal employment opportunity principles and practices in all of our management decisions and personnel practices.

**f. No FEAR Act Training Plans (5 C.F.R. § 724.302 (a)(9))**

Section 202(c) of the No FEAR Act requires agencies to provide training to their employees on the rights and remedies under Federal antidiscrimination, retaliation, and whistleblower protection laws. Under 5 C.F.R. § 724.203, agencies are required to develop a written plan for training employees on the No FEAR Act.

During FY 2009, the Office of Civil Rights held its first Agency-wide training for EEO Counselors, Managers and Professionals. Developed by the Agency Employment Complaints Resolution Staff, in conjunction with staff from the Equal Employment Opportunity Commission, Agency EEO personnel received classroom training to include guidance on writing EEO Counselor's reports, the Alternative Dispute Resolution process, and conducting thorough EEO Counseling, just to name a few. This gathering of employees from all different Regions within the Agency allowed for productive discussions on potential changes in policy and complaint processing methodologies, development of new Agency forms and ideas for ways to optimize available resources and become a model EEO program.

Also during FY 2009, the Agency developed and scheduled multiple EEO classroom trainings for all Agency employees and was able to provide training to a total of 12,906 employees during the fiscal year. The Agency is updating its No FEAR on-line training course. Once updated and revised, all employees will complete this new training prior to December 30, 2010.

**IV. ANALYSIS OF TRENDS, CAUSAL ANALYSIS AND PRACTICAL KNOWLEDGE GAINED THROUGH EXPERIENCE (5 C.F.R. § 724.302 (a)(7))**

Section 203(a)(7) of the No FEAR Act requires that agencies undertake "an examination of trends, causal analysis, practical knowledge gained through experience, and any actions planned or taken to improve complaint or civil rights programs of the agency."

At the conclusion of FY 2009, the Agency saw a 5.5% increase in number of complaints; an increase of 4 from FY 2008. Overall, the percentage of complainants in the Agency is very low and under the government-wide number of .5%. Over the past five years, EPA's number of complainants by percentage of workforce has ranged from 0.3% to 0.44%. In FY 2009, the percentage of complainants was 0.417%. By the conclusion of FY 2009, the Agency saw an 8% increase in the number of administrative complaints filed and a 3% decrease in the number of complainants compared to FY 2008. The bases of alleged discrimination most often raised were: (1) Sex; (2) Race; and (3) Age. The Agency saw a 27% decrease in the number of complaints filed on the bases of retaliation between FY 2008 and FY 2009.

The 77 administrative complaints filed at EPA in 2009 contained 38 allegations of sex discrimination, 37 allegations of race discrimination and 37 allegations of age discrimination. The EEO complaint activity at EPA remained relatively consistent with respect to the bases alleged; the data reflects certain shifts and trends but mostly does not show any significant increase in complaints filed on certain bases of discrimination, when considering the aggregate size of the workforce. EPA attributes the increase in complaints filed as well as the decrease in the allegations of retaliation to the continued education of employees on the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws.

During FY 2009, EPA made significant progress in improving the timeliness of EEO investigations, completing investigations for complaints pending during FY 2009 with an average processing time of 125 days, down from 137 days in FY 2008. During FY 2009, there were only 8 complaints pending where the investigations exceeded the required timeframes, a 47% decrease from FY 2008. EPA's average processing time for all complaint closures decreased from 393 days in FY 2008 to 236 days in FY 2009, a 40% decrease in the total average processing time for complaints within the Agency.

The EPA has gained practical knowledge and experience since the first year of implementing the NoFEAR Act, and continues to recognize the importance of a centralized database of information relevant to the reporting requirements of the NoFEAR Act. It is important that there be an electronic interface between the Office of Civil Rights; Office Human Resources; Offices of the General Counsel and Chief Financial Officer. To assist in that aim, OCR has deployed a web based complaint tracking system. Still in its testing phase, the hope is to eventually allow varying levels of access to these organizations that play a vital role in meeting the reporting requirements of the NoFEAR Act. OCR will continue work to implement a fully functional information system to facilitate the process of gathering information and data from these important departments in its headquarters and regional offices.

Through experience gained over the last five years, EPA will continue to apply a wealth of practical knowledge towards ensuring merit systems compliance, prompt and impartial complaint-processing, and accountability. EPA is committed to promoting EEO and other merit systems principles and practices throughout the Agency's management decisions and personnel activities, and it is the goal of the OCR EEO and Diversity Programs to help EPA recruit, develop and retain a high-quality, diverse workforce, notable for its constructive communication, professionalism, respect, perspectives, ideas, experiences, and trust between individuals. OCR will continue partnering with the Agency's Office of Human Resources to emphasize recruitment of the best candidates from a variety of sources, selection and advancement of the best qualified employees based upon merit, delivery of EEO training for EPA managers and employees, promotion of equal employment opportunities to all individuals, and providing a prompt, fair, and impartial review of discrimination allegations while maintaining accountability.

## **V. ADJUSTMENTS TO BUDGET (5 C.F.R. § 724.302(a)(2)(ii))**

Section 203(a)(8) of the No FEAR Act requires that agencies include in their Annual Report "any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201."

Of the 11 Federal cases noted above, 2 were settled during the reporting period, both involving Title VII claims. One of the cases involved a payment of \$45,000, of which \$20,000 was separately designated for the payment of attorney's fees. The other settled case involved the payment of \$100,000 with no specific amount for attorney's fees designated separately. All of these payments required reimbursement to the Judgment Fund.

In another case, the Agency reimbursed the Judgment Fund for a payment of \$100,000 in attorney's fees the Agency was ordered to pay by the presiding judge. The Agency, however, prevailed in that case when the presiding judge granted the Agency's motion for summary judgment.

#### **VI. ACTIONS PLANNED OR TAKEN TO IMPROVE COMPLAINT OR CIVIL RIGHTS PROGRAMS (5 C.F.R. § 724.302 (a)(7)(iv))**

Based on insights gained during the extensive trainings held for employees and staff during FY 2008 and 2009, OCR has implemented new strategies, performance metrics, procedures, technical training, controls, staff and technology for the Employment Complaints Resolution Staff (ECRS). Some of these strategies include the implementation of quarterly technical trainings and case law updates for staff, a more stringent review process for draft Reports of Investigations by higher graded staff to identify any investigative deficiencies and reduce the need for supplemental investigations and remands, as well as quarterly teleconferences with Regional EEO staff to identify and address concerns as they arise and assure continued uniformity in processing. These measures have already enabled ECRS to achieve impressive results through improved processing times and enhanced quality of EEO complaint adjudications, as well as increased efficiency and improved quality of complaint intake, tracking, and out-processing.

As EPA strives to create a diverse workforce, increasing the representation of minorities, women, and people with disabilities in the applicant pool from which the Agency selects qualified individuals is a major focus of both national and local recruitment efforts. These efforts are informed by annual assessments by EPA Headquarters and Regional offices of the composition of the Agency's workforce in occupational categories and grade groups. Workforce planning is a fundamental strategy underlying several approaches to improving EPA's human capital. The Agency is developing a Workforce planning and allocation model to help identify the competencies required to meet EPA's organizational goals.

#### **ACCOMPLISHMENTS UPDATE**

The EPA has pursued the requirements of this important legislation as indicated in the actions highlighted below.

### **Policy Development**

- (1) **Updated EEO Policy** The 2009 Agency Policy exemplifies the Agency's unwavering commitment to providing a discrimination free work environment to all employees. We will continue to identify and eliminate any barriers to equal participation at all levels of the workforce and will evaluate managers and supervisors on efforts to ensure equality of employment opportunity.
- (2) **Evaluating Supervisory Performance** Elements of the SES performance standard 'flow down' to subordinate managers and supervisors. Further, this standard contemplates that each manager monitors the work environment to prevent discrimination and harassment, and will take timely action if harassment or other discriminatory treatment is observed, reported, or suspected.

### **Employee Awareness and Training**

During FY 2009 EPA provided extensive classroom training to its senior staff, managers, supervisors, and employees on a variety of topics including, but not limited to the following:

- The No FEAR Act;
- EEO Law;
- EEO complaint process;
- Conflict resolution communication skills;
- Alternative Dispute Resolution (ADR) and effective mediation tools;
- Reasonable Accommodation for Employees with Disabilities.
- Topic specific training for the EEO intake staff/counselors and officers

### **Diversity, Special Emphasis and Special Observance Programs**

EPA has continued to maintain strong programs in FY 2009 for the employment, advancement and retention of a diverse Federal workforce. These programs included initiatives to: achieve a model EEO program; strengthen partnerships with academic institutions and special emphasis community groups; conduct outreach and recruitment events to provide potential civil service recruits with information on locating and applying for EPA jobs; and educate and encourage the use of various recruitment flexibilities to tap into diverse talent pools. EPA also regularly conducted Special Observance programs at both Headquarters and Regional offices, designed to provide information and foster appreciation for individuals of different cultures and experiences.

## APPENDIX 1

### Equal Employment Opportunity Data Posted Pursuant to the No Fear Act

Equal Employment Opportunity Data Posted Pursuant to Title III of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174

Data as of September 31 - End of Fiscal Year 2009

Complaint Category	Comprehensive Data Previous Fiscal Year Data					
	2004	2005	2006	2007	2008	2009
Number of Complaints Filed in Fiscal Year	71	69	76	64	73	79
Number of Complainants	69	65	60	59	72	70
Repeat Filers	2	8	11	7	1	8

Complaint Category	Comprehensive Data Previous Fiscal Year Data					
	2004	2005	2006	2007	2008	2009
Race	64	34	37	33	36	37
Color	21	12	6	8	15	3
Religion	0	2	0	2	2	1



Retaliation	72	59	57	36	40	29
Sex	49	39	30	22	28	38
National Origin	14	18	13	9	10	7
Equal Pay Act	0	2	0	1	0	0
Age	41	21	29	30	29	37
Disability	46	25	33	23	17	24
Non EEO Bases	0	0	0	0	0	0

Complaints by Type	Complaints by Date					
	2004	2005	2006	2007	2008	2009
Appointment/Hire	0	0	2	0	0	0
Assignment of Duties	20	8	4	8	15	8
Awards	1	6	6	2	5	2
Conversion to Full-Time	1	1	0	0	1	0
<b>Disciplinary Action</b>						
Demotion	1	2	1	0	1	0

Reprimand	11	5	3	3	2	3
Suspension	4	0	3	3	0	2
Removal	4	0	2	0	0	1
Other	0	0	0	0	0	0
Duty Hours	1	0	0	1	0	0
Evaluation Appraisal	9	8	16	14	17	9
Examination/Test	0	1	0	0	0	0
<b>Harassment</b>						
Non-Sexual	88	32	41	27	29	34
Sexual	3	1	1	0	1	2
Medical Examination	0	0	1	0	0	0
Pay (Including Overtime)	4	5	4	4	2	2
Promotion/Non-Selection	91	22	27	22	29	28
<b>Reassignment</b>						
Denied	0	4	0	4	1	0
Directed	0	2	2	2	4	2
Reasonable Accommodation	14	7	11	7	4	10
Reinstatement	0	0	0	2	0	0
Retirement	0	1	2	1	0	0
Termination	11	6	1	5	4	7
Terms/Conditions of Employment	43	15	18	17	11	7
Time and Attendance	6	8	11	11	12	8
Training	9	5	6	5	7	5
Other	0	0	0	0	0	0

Processing Time	Comparative Data Previous Fiscal Year
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	2004	2005	2006	2007	2008	2009
<b>Complaints Pending During Fiscal Year</b>						
Average Number of Days in Investigative Stage	163	143	120	112	137	125
Average Number of Days in Final Action Stage	569	458	388	400	393	182
<b>Complaints Pending During Fiscal Year Where Hearing was Requested</b>						
Average Number of Days in Investigation Stage	224	250	185	251	250	230
Average Number of Days in Final Action Stage	0	0	0	0	0	0
<b>Complaints Pending During Fiscal Year Where Hearing was not Requested</b>						
Average Number of Days in Investigation Stage	163	143	120	112	137	125

Average Number of Days in Final Action Stage	569	458	388	400	393	236
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Complaints Dismissed by Agency	Comparative Data Previous Fiscal Year Data					
	2004	2005	2006	2007	2008	2009
Total Complaints Dismissed by Agency	23	33	21	11	12	3
Average Days Pending Prior to Dismissal	300	143	149	169	78	87
<b>Complaints Withdrawn by Complainants</b>						
Total Complaints Withdrawn by Complainants	12	5	4	9	7	3

Alleged Finding(s) or Finding Disposition	Comparative Data Previous Fiscal Year Data					
	2004	2005	2006	2007	2008	2009
Total Number Findings	0	0	0	2	1	0
Without Hearing	0	0	0	0	0	0
With Hearing	0	0	0	2 100%	1 100%	0

Findings of Discrimination Reported by Complainant Basis	Comparative Data Previous Fiscal Year Data											
<b>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings</b>	2004		2005		2006		2007		2008		2009	
	#	%	#	%	#	%	#	%	#	%	#	%

<b>Total Number of Findings</b>	0	0.0 0	0	0.0 0	0	0.00	2	1.00	1	1.00	0	0.00
Race	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Color	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Religion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retaliation	0	0.00	0	0.00	0	0.00	2	0.66	0	0.00	0	0.00
Sex	0	0.00	0	0.00	0	0.00	1	0.33	0	0.00	0	0.00
National Origin	0	0.00	0	0.00	0	0.00	0	0.00	1	1.00	0	0.00
Equal Pay Act	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Age	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Disability	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Non-EEO	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
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Findings of Discrimination Reported by Basis	Comparative Data Previous Fiscal Year Data											
Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings	2004		2005		2006		2007		2008		2009	
	#	%	#	%	#	%	#	%	#	%	#	%
<b>Findings After Hearing</b>	0	0.00	0	0.00	0	0.00	2	1.00	1	1.00	0	0.00
Race	0	0.00	0	0.00	0	0.00	1	0.167	0	0.00	0	0.00
Color	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Religion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retaliation	0	0.00	0	0.00	0	0.00	2	0.33	0	0.00	0	0.00
Sex (Includes Equal Pay Act)	0	0.00	0	0.00	0	0.00	2	0.33	0	0.00	0	0.00
National Origin	0	0.00	0	0.00	0	0.00	1	0.167	1	1.00	0	0.00

Equal Pay Act	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Age	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Disability	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-EEO	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Findings of Public Employees (not including live-in employees)	Complaints by Date of Filing											
	2004		2005		2006		2007		2008		2009	
Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings	#	%	#	%	#	%	#	%	#	%	#	%
Findings Without Hearing	0	0	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Race	0	0	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Color	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Religion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Retaliation	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Sex	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
National Origin	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Equal Pay Act	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Age	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Disability	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-EEO	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Findings of Discrimination Rendered by EEOC	Discriminative Data Pre- and Post-Violation Data											
	2004		2005		2006		2007		2008		2009	
	#	%	#	%	#	%	#	%	#	%	#	%
<b>Total Number of Findings</b>	0	0.00	0	0.00	0	0.00	2	1.00	1	1.00	0	0.00
Appointment/Hire	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Assignment of Duties	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Awards	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00



Conversion to Full-Time	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Disciplinary Action</b>												
Demotion	0	0.00	0	0.00	0	0.00	1	0.167	0	0.00	0	0.00
Reprimand	0	0.00	0	0.00	0	0.00	0	0.00	1	0.50	0	0.00
Suspension	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Removal	0	0.00	0	0.00	0	0.00	1	0.167	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Duty Hours	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Evaluation Appraisal	0	0.00	0	0.00	0	0.00	1	0.167	0	0.00	0	0.00
Examination/Test	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Harassment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-Sexual	0	0.00	0	0.00	0	0.00	2	0.33	1	0.50	0	0.00
Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Medical Examination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Pay (Including Overtime)	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Promotion/Non-Selection	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Reassignment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Denied	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Directed	0	0.00	0	0.00	0	0.00	1	0.167	0	0.25	0	0.25
Reasonable Accommodation	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reinstatement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retirement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Termination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Terms/Conditions of Employment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Time and Attendance	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Training	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Findings of Discrimination/Retaliation by Issue				Comparative Data Previous Fiscal Year Data									
	2004		2005		2006		2007		2008		2009		
	#	%	#	%	#	%	#	%	#	%	#	%	
Findings After Hearing	0	0.00	0	0.00	0	0.00	2	1.00	1	1.00	0	0.00	
Appointment/Hire	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	
Assignment of Duties	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	
Awards	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	
Conversion to Full-Time	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	
Disciplinary Action													
Demotion	0	0.00	0	0.00	0	0.00	1	0.167	0	0.00	0	0.00	
Reprimand	0	0.00	0	0.00	0	0.00	0	0.00	1	0.50	0	0.00	
Suspension	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	
Removal	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	
Duty Hours	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	
Evaluation Appraisal	0	0.00	0	0.00	0	0.00	1	0.167	0	0.00	0	0.00	
Examination/Test	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	
Harassment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	
Non-Sexual	0	0.00	0	0.00	0	0.00	2	0.33	1	0.50	0	0.00	
Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	
Medical Examination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	
Pay (Including Overtime)	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	
Promotion/Non-Selection	2	0.50	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	
Reassignment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	
Denied	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	
Directed	0	0.00	0	0.00	0	0.00	1	0.167	0	0.25	0	0.25	
Reasonable Accommodation	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	
Reinstatement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	

Retirement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Termination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Terms/Conditions of Employment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Time and Attendance	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Training	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Findings of Discrimination Rendered by Tribunal	Comparative Data Previous Fiscal Year Data											
	2004		2005		2006		2007		2008		2009	
	#	%	#	%	#	%	#	%	#	%	#	%
<b>Findings Without Hearing</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Appointment/Hire	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Assignment of Duties	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Awards	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Conversion to Full-Time	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Disciplinary Action</b>												
Demotion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reprimand	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Suspension	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Removal	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Duty Hours	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Evaluation Appraisal	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Examination/Test	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Harassment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Medical Examination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Pay (Including Overtime)	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Promotion/Non-Selection	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Reassignment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Denied	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Directed	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reasonable Accommodation	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reinstatement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retirement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Termination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Terms/Conditions of Employment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Time and Attendance	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Training	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Pending Complaints (Fiscal Year)		Complaint Data				
Year		Previous Fiscal Year Data				
Complaint Activity	2004	2005	2006	2007	2008	2009
Total Complaints from previous Fiscal Years	167	129	91	81	71	54
Total Complainants	165	111	75	54	64	49
Number of Complaints Pending						

In Investigation	3	0	0	0	1	1
In Hearing	95	32	25	14	19	38
Final Action	4	15	9	7	4	15
Appeal with EEOC Office of Federal Operations	52	30	22	9	7	11

Complaint Investigations	Comparative Data					
	Previous Fiscal Year Data					
Complaint Investigations	2004	2005	2006	2007	2008	2009
Pending Complaints Where Investigation Exceeds Required Time Frames	7	6	4	4	14	8

## **APPENDIX 2**

# **MEMORANDUM- Policy Statement on Prohibition of Sexual Harassment**

**SUBJECT: Policy Statement on Prohibition of Sexual Harassment**

**TO: All Employees**

Our Agency is committed to maintaining a work environment governed by responsible, efficient, and ethical management. To ensure such a commitment, we all need to know the policies and guidelines prohibiting sexual harassment. Any behaviors which weaken our ability to lead and manage our people and programs are unacceptable in our work place.

Sexual harassment is a prohibited personnel practice contrary to merit system principles outlined in the Civil Service Reform Act of 1978 and contrary to law outlined in Title VII of the Civil Rights Act of 1964. Specifically, sexual harassment is deliberate, or repeated, unsolicited verbal comments, gestures, or physical contacts of a sexual nature which are unwelcome. Such sexual advances, requests for sexual favors, and other harassment when: (1) they are made explicitly or implicitly a condition of an individual's employment; (2) submission to, or rejection of them, affects employment decisions impacting an individual, such as promotion or work assignments; or (3) they unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive work environment.

Any behavior which undermines the integrity of the employment relationship, impairs morale or interferes with employee productivity is a violation of ethical conduct in our Agency.

This memorandum constitutes the official policy regarding sexual harassment at the Environmental Protection Agency. We all share in the responsibility to promote a climate free from sexual harassment.

/s/ Carol M. Browner

**Issued: June 1, 1993**

## **APPENDIX 3**

### ***2009 Equal Employment Opportunity (EEO) Policy Statement***

#### **Memorandum**

**FROM:** Administrator Lisa P. Jackson

**TO:** All EPA Employees

I believe that there is no higher calling than public service, and that there is no more important work in public service than the pursuit of civil equity. Our credibility and efficacy in the area of EEO is inextricably linked to our integrity and impartiality. In a sense, our capacity to protect human health and the natural environment depends on the protection of the workforce and the vindication of workforce rights, and we are duty bound to protect the rights of all employees, without bias or favoritism. To these ends, EPA must always strive to foster a work environment where the principles of EEO are willingly embraced and diversity is valued and understood. Maintaining a world class public service workforce requires strategic efforts to tap into the intellectual capital of our global economy. The 2000 Census shows major shifts in the demographic profile of the population we serve and the labor force from which we recruit. It is predicted that within the next 30 years, no single racial or ethnic group will comprise the majority of the nation's population. Clearly, changes associated with our increasingly pluralistic society bring concurrent opportunities and challenges.

#### **Guiding Principle**

EPA will be fully committed to the principles of EEO, equity, and diversity in the workplace and adhere to the policy of ensuring equal employment opportunity, prohibiting unlawful discrimination, retaliation and harassment in all its forms, and promoting diversity and inclusiveness.

#### **Definition(s)**

Equal Employment Opportunity (EEO) refers to the set of laws and policies that mandate all individuals' rights to equal opportunity in the workplace. The unequivocal protection of these fundamental civil rights in the workplace is the cornerstone of our American democracy and the foundation upon which diversity can thrive.

Diversity refers to the human qualities that are different from our own and those of groups to which we belong; but are manifested in other individuals and groups. Dimensions of diversity include but are not limited to: age, ethnicity, gender, physical abilities/qualities, race, sexual orientation, educational background, geographic location, socioeconomic status, marital status, military experience, religious beliefs, political beliefs and ideologies.

Diversity management, in contrast, is a proactive and appropriate response to the changing profile of our world. It is imperative that we recognize that in order to be relevant in the global

economy of the 21 st century, the Agency must recruit, develop, and retain a world class workforce that reflects the many dimensions of the society it serves. Based on the empirical correlation between workforce diversity and high performing organizations, a strong business case can be made for diversity.

### **Affirmation**

I wish to affirm that no employee will be denied equal opportunity because of race, color, religion, sex, national origin, age, disability, status as a parent, sexual orientation, marital status, protected genetic status or prior EEO activity (reprisal). Individually, and collectively as an Agency, we must:

- ensure that all programs to recruit, hire, train, develop, promote, reward, and discipline employees are conducted in a fair and consistent manner on the basis of merit. Each employee will be regarded fairly and treated with dignity and respect.
- maintain a work environment free from unlawful discrimination, reprisal and harassment. To do otherwise is simply not an option. It is totally unacceptable and will not be tolerated. Managers and supervisors will continually be held accountable for their responsibility to identify and correct discriminatory policies, practices and behaviors and for taking prompt and appropriate action to ensure that the work environment is free of unlawful discrimination, reprisal and/or harassment.
- provide reasonable accommodations for qualified applicants and employees with disabilities.
- seek to resolve workplace conflicts in a prompt, impartial, confidential, nondiscriminatory, and constructive manner, and without fear of reprisal. Every employee is encouraged to use the Alternative Dispute Resolution (ADR) process as a valuable tool in resolving workplace disputes and complaints of discrimination; and when appropriate, managers and supervisors shall fully participate in the ADR process.
- educate managers, supervisors, and employees of their rights and responsibilities under Federal law. Equal opportunity is good business and it is the law. I expect all managers, supervisors, and employees to carry out their duties accordingly.

### **Conclusion**

I expect EPA to continue to maintain policies that allow all employees to work in an environment that is free from discrimination, reprisal, and harassment.

It is my vision that EEO and diversity management are separate but symbiotic functions essential to the success of the EPA as a high performing organization. Together, these functions create synergy and transform our organization into one in which the whole is greater than the sum of singular entities. We are strengthened by our diversity, and empowered by our commitment to effective EEO.



AL-10-001-0817

SUSAN M. COLLINS

2010

COMMITTEES  
EARTH AND SPACE SCIENCE  
GOVERNMENTAL AFFAIRS  
NATURAL RESOURCES  
APPROPRIATIONS  
ARMED SERVICES  
SPECIAL COMMITTEE  
ON AGING

U.S. SENATOR, NEW YORK  
WASHINGTON, DC 20510-1904  
202-224-2441  
202-224-2442

## United States Senate

WASHINGTON, DC 20510-1904

June 29, 2010

Ms. Joyce K. Frank  
Acting Associate Administrator for Legislative Affairs  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW, Room 3426 ARN  
Washington, DC 20005

Dear Ms. Frank:

A constituent of mine has contacted my office because he is frustrated with the lack of information available about the dispersants being used in the oil spill response.

Specifically, he is looking for what oil dispersants are being used, in what concentration they are being used, and if these dispersants are being used far under water.

I would appreciate it if you would look into this matter and respond to me. Please send your response to the attention of Morgan Cashwell in my Washington office. I have attached his letter for your review.

Thank you for your assistance in this matter.

Sincerely,



Susan M. Collins  
United States Senator

SMC: mlc  
Enclosure

AL-10-001-2160

001/006

SUSAN M. COLLINS  
MAINE

413 DIRKSEN SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-1904  
(202) 224-2823  
(202) 224-2893 (FAX)

United States Senate  
WASHINGTON, DC 20510-1904  
UNITED STATES SENATOR • MAINE

SUSAN COLLINS

FAX COVER SHEET



COMMITTEES:  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS,  
RANKING MEMBER  
APPROPRIATIONS  
ARMED SERVICES  
SPECIAL COMMITTEE  
ON AGING

YORK COUNTY OFFICE  
160 MAIN STREET  
BIDDEFORD, ME 04005

PHONE: (207) 283-1101 FAX: (207) 283-4054

TO: EPA – Ms. Joyce Frank

FROM: Helena R. Ackerson

FAX: (202)501-1519

DATE: July 20, 2010

SUBJECT: Mr. Gx. le

PAGES (Inc. cover):

COMMENTS:

Enclosed is Mr. information regarding his request for  
assistance. Please let me know if you have any questions at (207) 283-  
1101.

Sincerely,

SK 6

Helena R. Ackerson  
Staff Assistant to  
Susan M. Collins  
United States Senator

July 13, 2010

Dear Helena and Senator Collins:

Thank you for responding to my inquiry regarding my frustrations with the EPA and the process in acquiring the necessary certification needed to go about my business.

I'm a self employed painting and wallpapering contractor and have two sizable jobs under contract for the summer months. Back in March, I successfully completed the EPA's mandated lead renovator certification class (\$195.00). I am now a certified lead renovator, but cannot work on either of my two big summer jobs until I become a "certified firm". It took approx. six and a half weeks to receive my lead renovator certification paperwork in the mail even though I was assured it would only take "a couple of weeks". After a number of calls to one of the instructors and the Arthur Gary School of Real Estate (the sponsor of the class), I finally received the paperwork and was then comfortable enough to send an additional \$300.00 to the EPA in St. Louis, MO to apply for my firm certification.

In less than 4 days from submitting my application, My check was cashed but no word from the EPA about my application. Upon contacting the EPA, they informed me that the checks are first taken by the people in St. Louis, and then the application is forwarded to another location where they will decide whether or not the application has been filled out correctly or not and then have 3 weeks to contact me with that decision. Once they have decided if the application is filled out properly, they then have another 90 days to issue my firm certification or deny it.

Ninety days from today takes us into the middle of October, and I have no other work until I can get these two contract jobs started. I have a family and a home, and this utterly ridiculous red tape is both unnecessary and infuriating to not only me, but many other contractors that are in this same predicament.

Will you please help to expedite my firm certification process so I can get back to work earning a living and paying my bills? Enclosed please find copies of pertinent information regarding my application and contractor status.

Respectively Yours,

YORK COUNTY OFFICE • 160 MAIN STREET • BIDDEFORD, ME • 04005



UNITED STATES SENATOR • MAINE

SUSAN COLLINS

## PRIVACY AUTHORIZATION

Date: 7/13/2010

To Whom It May Concern:

In accordance with the requirements of the Privacy Act of 1974, which protects my confidential records from unauthorized release, I am taking this opportunity to give Senator Susan Collins and her staff permission to receive information in my records relative to her inquiry on my behalf.

Name (Please Print)

KENNEBUNK, MAINE04043

Address

Telephone Number

Date of Birth

Social Security Number

Signature

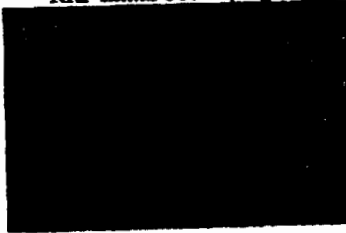
As required, I have included a written explanation of my situation and the action I would like Senator Collins to take on my behalf.



• *Lead Edu • 33 S. Commercial St. • Manchester, NH 03101 •*

Congratulations! It is our pleasure to inform you that you have successfully completed the Certified Renovator exam and training course! You are now an EPA/HUD Certified Renovator. Please find enclosed your wallet size Identification Card, identifying you as a Certified Renovator, and Cleaning Verification Card. This ID card displays all the necessary information mandated by EPA requirements. Please examine this official document and contact us immediately if there are any errors. If you find an error, please e-mail me at [KXintaras@KKirkwood.com](mailto:KXintaras@KKirkwood.com) and I will gladly fix the issue and send a revised copy.

We appreciated the opportunity to assist you in your certification process. Please feel free to contact us if we can be of any assistance in the future.

<b>EPA RRP Certified Renovator</b>	
Training: <u>3/17/2010</u>	Test: <u>3/17/2010</u>
RRP Initial Course(English)	
<i>KX-LL</i>	
Kennebunk, ME 03908	
Expires: <u>3/17/2015</u>	
R-I-18692-10-03338	
•Lead-Edu • 23 Nute Rd • Madbury, NH 03823 • (603)749-5775 •	



Form Approved OMB No. 2070-0165 Expires 10/31/11

U.S. ENVIRONMENTAL PROTECTION AGENCY

# APPLICATION FOR FIRMS TO CONDUCT LEAD-BASED PAINT ACTIVITIES/OR RENOVATIONS

**Important:** This application is required by 40 CFR §745.89(a) for renovations and is a substitute for the letter required by §745.226(f)(2) for abatement. Consult the instructions for firms applying for certification to conduct lead-based activities or renovations. For abatement activities, persons seeking individual certification should use the *Application for Individuals* instead of this form. Please fill out all sections. Type or print responses in black or blue ink only.

## A. General Information

Select one of the following application types for lead-based paint activities: (abatement, inspection, risk assessment) and/or Repair, Renovation, and Painting (RRP) (renovation or dust sampling technician)

- ☒ Initial certification application - renovation (RRP)
- ☐ Initial certification application - abatement, inspection, risk assessment
- ☐ Re-certification application - renovation (RRP)
- ☐ Re-certification application - abatement, inspection, risk assessment
- ☐ Combined certification - abatement, inspection, risk assessment and renovation
- ☐ Combined re-certification - abatement, inspection, risk assessment and renovation
- ☐ Adding jurisdiction[s]\* to certification/amending certification
- ☐ Replacement of a certificate

\*The fee you must pay for the above certifications depends on the number of EPA-run jurisdiction[s] in which you plan to conduct lead-based paint activities (jurisdictions do not apply to renovation certification). See the fees schedule in the instructions to determine your fee. The total fee listed below should include fees calculated on any additional sheets.

1<sup>st</sup> EPA-run jurisdiction (pay base certification fee only)..... Fee: \$  
(See the definition of EPA-run jurisdiction[s], the fee example and an explanation of the combined application in the instructions. For current listing of EPA-run jurisdictions, see [www.epa.gov/lead](http://www.epa.gov/lead) or call 1-800-424-LEAD).

Each additional EPA-run jurisdiction: ..... Fee: \$  
(List on additional sheets of paper and attach, as necessary, \$35 per jurisdiction)

Certification for Renovations only (jurisdictions do not apply to renovation certification): ..... Fee: \$ 300.00

**Total Fee \$ 300.00**

## B. Applicant Information

Check here if you are a federally-recognized Indian tribe seeking certification as a firm.

Name of Firm:

Business Address: Kennebunk Maine 04043  
Street Address, Suite Number (Please no P.O. Box) City State Zip Code

Mailing Address: Kennebunk Maine 04043  
(if different from above) Street Address, Suite Number (Please no P.O. Box) City State Zip Code

Name of Attesting Individual: Last First Middle

Firm's Phone # ext #: Attesting Individual's Phone #: ext.

Attesting Individual's E-mail Address: boydo@roadrunner.com

## C. Professional Certifications

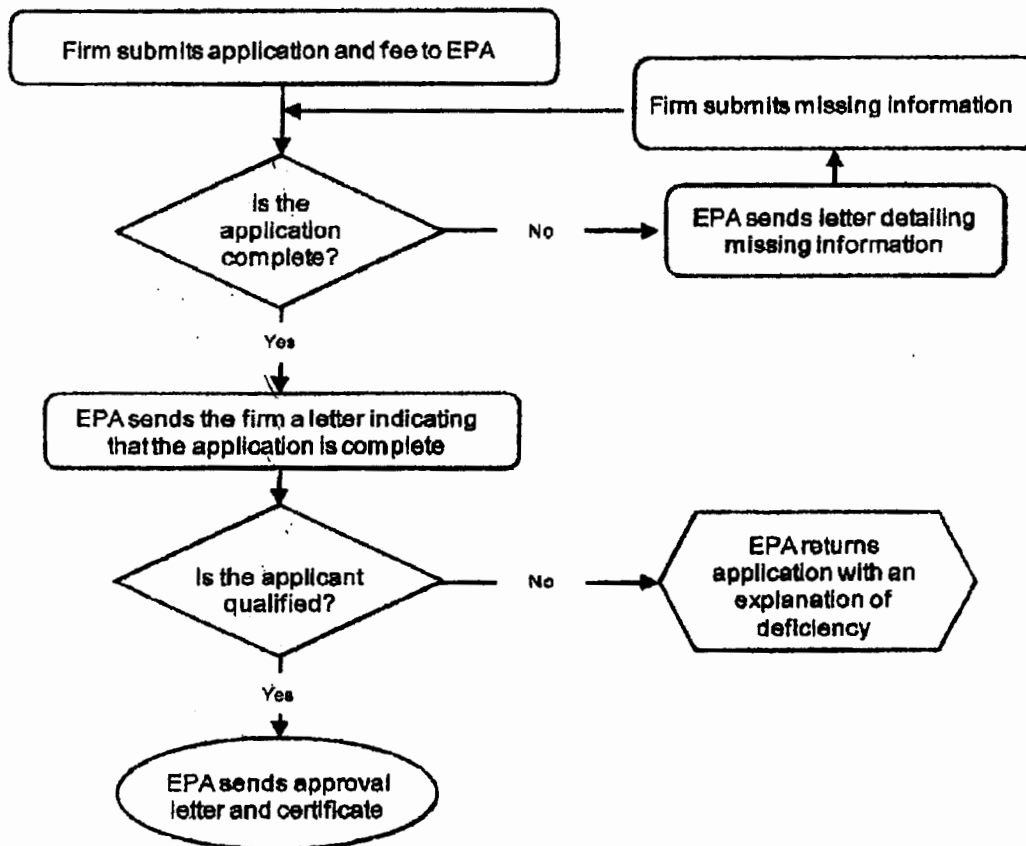
Does the firm hold current permits, licenses, certifications, or registrations in the lead-based paint field in any state, U.S. territory, or Indian tribal land? ☒ Yes ☐ No

If yes, please fill in the following blanks, one line for each permit, license, certification, or registration held. Attach additional sheets of paper, as necessary.

Type of certification held	State, U.S. Territory, or Indian tribal land(s) name	Certification/Identification Number	Date received
RRP Initial Course	Maine	R-1-18692-10-03338	3/17/2010
Type of certification held	State, U.S. Territory, or Indian tribal land(s) name	Certification/Identification Number	Date received

**Application Process for Firm Certification**

EPA processes applications on a first-come, first-served basis. The following flowchart depicts the application process for firm certification. EPA has up to 90 days after receiving a complete request for certification to approve or disapprove the application.



**Paperwork Reduction Act Notice:** The annual public burden for this collection of information is estimated to be 7.5 hours for firms, including the time needed for reading the instructions and completing the necessary information contained in this form. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden to: Director, Collection Strategies Division, Office of Environmental Information (OEI), U.S. Environmental Protection Agency (Mail Code 2822), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460. Include OMB number 2070-0155 in any correspondence. Do not send the completed form or requested information to this address. The actual information or form should be submitted in accordance with the instructions accompanying the form, or as specified in the corresponding regulations.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 31 2010

OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

The Honorable Susan M. Collins  
United States Senate  
York County Office  
160 Main Street  
Biddeford, ME 04005

Dear Senator Collins:

Thank you for your letter of July 20, 2010, to the U.S. Environmental Protection Agency (EPA) on behalf of your constituent, Mr. [redacted], regarding his application to become a certified firm under EPA's Lead Renovation, Repair, and Painting Rule (RRP rule).

Mr. [redacted] letter noted that it took several weeks for the EPA-accredited training provider to send his Certified Renovator paperwork after he took the class in March. My staff has asked the EPA regional office in Boston to remind training providers of the importance of issuing Certified Renovator certificates in an expeditious manner after class completion.

Mr. [redacted] is also concerned that his application for EPA firm certification has not yet been approved. Renovators should understand that it is not necessary to wait to receive training before applying for EPA firm certification. Mr. [redacted] application was postmarked June 24, 2010, and received by EPA on June 28, 2010. As you may know, EPA processes applications on a first-come, first-served basis and the Agency has received more than 70,000 firm applications since last fall. EPA has up to 90 days after receiving a complete request for certification to approve or disapprove the application, but has been completing application processing in much less time. Consistent with this timeline, Mr. [redacted] application was approved on August 5, 2010.

Again, thank you for your letter and I hope the information provided is helpful to you and your constituent. If you have any additional questions or concerns, please feel free to contact Christina Moody in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen A. Owens".

Stephen A. Owens  
Assistant Administrator



## United States Senate

WASHINGTON, DC 20510

September 24, 2010

The Honorable Lisa Jackson, Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building, Mail Code: 1101A  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Jackson:

We are writing to express our concern about the EPA's proposed Maximum Achievable Control Technology (MACT) rules, including the so-called Boiler MACT and CISWI MACT, which were published in the Federal Register on June 4, 2010. As our nation struggles to recover from the current recession, we are deeply concerned that the pending Clean Air Act boiler MACT regulations could impose onerous burdens on U.S. manufacturers, leading to the loss of potentially thousands of high-paying jobs this sector provides. As the national unemployment rate hovers around 10 percent, and federal, state, and municipal finances continue to be in dire straits, our country should not jeopardize thousands of manufacturing jobs. The flow of capital for new investment and hiring is still seriously restricted, and the projected cost of compliance could make or break the viability of continued operations. Both small and large businesses are vulnerable to extremely costly regulatory burdens, as well as municipalities, universities and federal facilities.

The EPA's regulatory analysis understates the significant economic impacts of the proposed rule. For example, the impact will be substantial to small businesses, such as sawmills, which have large boilers. In addition, EPA has concluded that no additional large biomass fired boilers will be built in the United States, indicating the cessation of the domestic biomass industry. As a result, we are rightly concerned that the proposed standards appear to create serious obstacles to the development of biomass energy projects, which have the potential to significantly reduce air pollution and production of greenhouse gases. Further, we are concerned that if adopted as currently proposed, the boiler MACT rules would discourage the current use of wood biomass in wood, pulp, and paper facilities, and most likely result in significant job losses in these industries. While we support efforts to address serious health threats from air emissions, we also believe that regulations can be crafted in a balanced way that sustains both the environment and jobs.

In Section 101 of the Clean Air Act, Congress declared that one of the fundamental purposes of the Act is "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." Congress provided EPA with discretion in certain areas to carefully design regulations that protect health and the environment while promoting the productive capacity of the nation. We are writing today to ask that you exercise this discretion in completing the MACT rulemakings. We understand that the Boiler MACT rule alone could impose tens of billions of dollars in capital costs at thousands of facilities across the country. The CISWI rule would have devastating impact on the biomass industry. Thus, we appreciate your willingness, as expressed in your

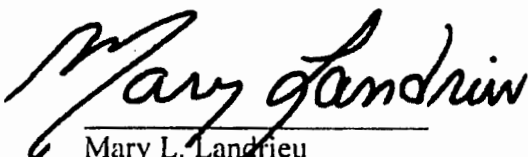
responses to previous Congressional letters, to consider flexible approaches that appropriately address the diversity of boilers, operations, sectors, and fuels that could prevent severe job losses and billions of dollars in unnecessary regulatory costs.

To help reduce the burden of the rule in a manner that does not compromise public health and safety, we believe EPA should consider exercising the "health threshold" discretion that Congress provided under Section 112(d)(4) of the Act. Under this section of the law, for emissions that are considered safe to human health in concentrations that fall below an established threshold, EPA may use this risk information to set emissions standards. In reaching your final decision, we ask that you carefully consider the extensive record that supported the Agency's determination to include health-based emissions limitations for hydrogen chloride and manganese in the previous Boiler MACT rulemaking that was set aside by the reviewing court on wholly unrelated grounds.

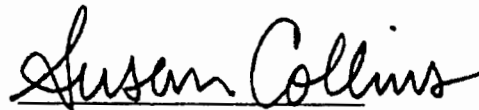
EPA also should use a method to set emissions standards that are based on what real world best performing units actually can achieve. It is our understanding that the EPA emissions database does not truly reflect the practical capabilities of controls or the variability in operations, fuels and testing performance across the many regulated sectors and boilers, especially in light of the proposal's reliance on surrogates, such as carbon monoxide – a pollutant with wide variability in actual boiler operation especially from biomass-fired boilers. In addition, the Clean Air Act also provides EPA with broad discretion to subcategorize within a source category based on size, type and class of source to help ensure that the emission limitations are determined based on what real world best performing units can ultimately achieve in practice. We do not believe that EPA has fully exercised its responsibility to subcategorize the numerous types and combinations of boilers and fuels. In particular, we urge you to carefully consider how the regulations can promote energy recovery from renewable, alternative fuels such as biomass. Finally, we urge you to consider how work practices for all gas-fired units, such as biogas and land fill gas fired boilers, could avoid the increase in emissions (e.g., NOx and CO2) and energy use that would result from the numerous control technologies required with no guarantee of actually achieving the emission limits.

As EPA turns to developing final MACT rules, we hope you will carefully consider these recommendations and comments to protect the environment and public health while fostering economic recovery and jobs.

Sincerely,



Mary L. Landrieu  
U.S. Senator



Susan M. Collins  
U.S. Senator

Ron Wyden

Ron Wyden  
U.S. Senator

Lamar Alexander

Lamar Alexander  
U.S. Senator

Evan Bayh

Evan Bayh  
U.S. Senator

George V. Voinovich

George V. Voinovich  
U.S. Senator

Patty Murray

Patty Murray  
U.S. Senator

Olympia Snowe

Olympia Snowe  
U.S. Senator

Blanche L. Lincoln

Blanche Lincoln  
U.S. Senator

Kit Bond

Kit Bond  
U.S. Senator

Bob Casey, Jr.

Robert Casey  
U.S. Senator

Bob Corker

Bob Corker  
U.S. Senator

Amy Klobuchar

Amy Klobuchar  
U.S. Senator

Richard Shelby

Richard Shelby  
U.S. Senator

Mark Pryor

Mark Pryor  
U.S. Senator

Roger Wicker

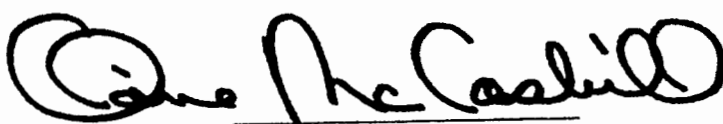
Roger Wicker  
U.S. Senator

Mark Begich

Mark Begich  
U.S. Senator

Saxby Chambliss

Saxby Chambliss  
U.S. Senator



Claire McCaskill  
U.S. Senator



James Risch  
U.S. Senator



Mark Warner  
U.S. Senator



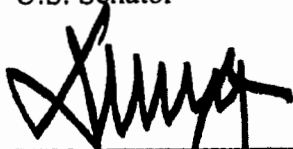
Richard Burr  
U.S. Senator



Barbara Mikulski  
U.S. Senator



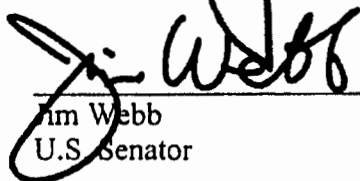
Mike Crapo  
U.S. Senator



Daniel Inouye  
U.S. Senator



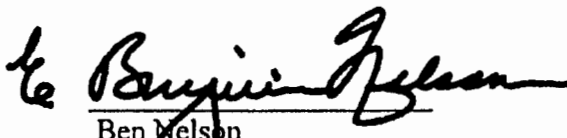
Tom Coburn  
U.S. Senator



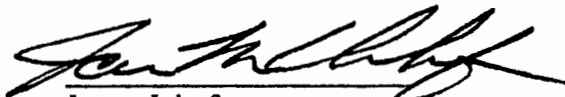
Jim Webb  
U.S. Senator



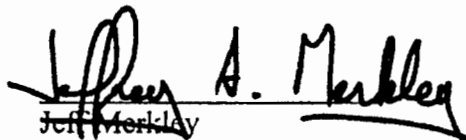
Jeff Sessions  
U.S. Senator



Ben Nelson  
U.S. Senator



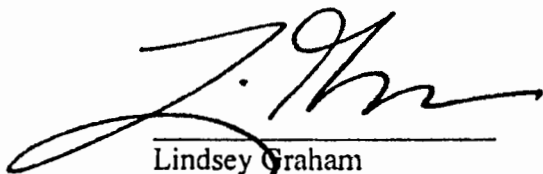
James Inhofe  
U.S. Senator



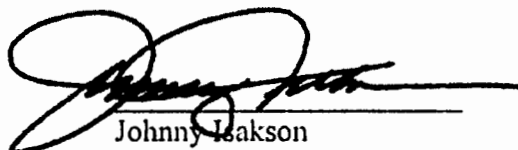
Jeff Merkley  
U.S. Senator



Thad Cochran  
U.S. Senator



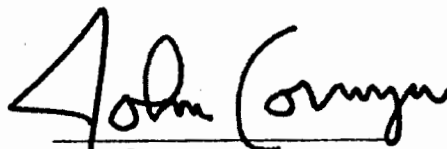
Lindsey Graham  
U.S. Senator



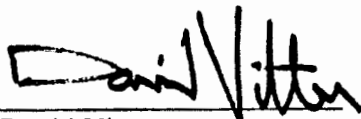
Johnny Isakson  
U.S. Senator



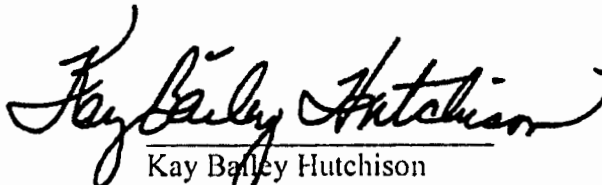
Herb Kohl  
U.S. Senator



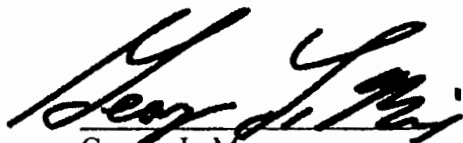
John Cornyn  
U.S. Senator



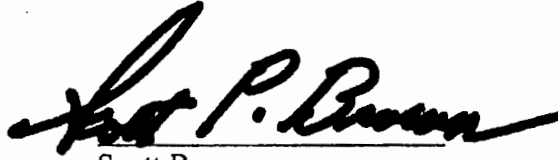
David Vitter  
U.S. Senator



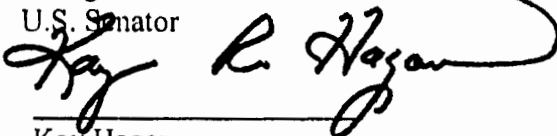
Kay Bailey Hutchison  
U.S. Senator



George LeMieux  
U.S. Senator



Scott Brown  
U.S. Senator



Kay Hagan  
U.S. Senator

cc: Regina McCarthy, Environmental Protection Agency  
Robert Perciasepe, Environmental Protection Agency  
Cass Sunstein, Office of Management and Budget  
Thomas Vilsack, Department of Agriculture  
Gary Locke, Department of Commerce  
Lawrence Summers, National Economic Council  
Jeffery Zients, Acting Director, Office of Management and Budget  
Ron Bloom, Department of the Treasury  
Nicole Lamb-Hale, Department of Commerce  
Melody Barnes, Domestic Policy Council  
James Messina, Executive Office of the President  
Philip Schiliro, Executive Office of the President  
Cecilia Munoz, Executive Office of the President



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 28 2010

THE ADMINISTRATOR

The Honorable Susan M. Collins  
United States Senate  
Washington, D.C. 20515

Dear Senator Collins:

Thank you for your recent letter about the proposed standards for controlling hazardous air emissions from industrial, commercial, and institutional boilers and process heaters ("Boiler NESHAP") and about the proposed standards for commercial and industrial solid waste incinerators ("CISWI Rule"). You raise important concerns, which I take very seriously.

As you know, the rulemakings at issue are not discretionary. In Sections 112 and 129 of the Clean Air Act, Congress directed the U.S. Environmental Protection Agency ("EPA") to establish these standards. EPA issued the proposals after many years of delay, and in order to meet a deadline ultimately set by the U.S. District Court for the District of Columbia.

Many of the facilities in question are located in very close proximity to neighborhoods where large numbers of people live and large numbers of children go to school. EPA estimates that the new standards will cut the facilities' toxic mercury emissions in half and, in the process, reduce their annual emissions of harmful sulfur dioxide and particulate matter by more than 300,000 tons and more than 30,000 tons respectively.

Each year, those reductions in air pollution will avoid an estimated 2,000 to 5,100 premature deaths, 1,400 cases of chronic bronchitis, 35,000 cases of aggravated asthma, and 1.6 million occurrences of acute respiratory symptoms. EPA estimates that Americans will receive five to twelve dollars in health benefits for every dollar spent to meet the standards.

Section 112 of the Clean Air Act directs EPA to calibrate the standards for each subcategory of facility to the emissions control that the best-performing twelve percent of existing facilities in that subcategory are currently achieving. The same section of the statute identifies the types of information that are necessary to justify the establishment of any separate subcategory. In an effort to establish separate subcategories wherever appropriate, and to calculate accurately the standards for each subcategory, EPA asked the affected companies and institutions for technical data about their facilities long before the court-ordered deadline for publishing a proposal. As is often the case in Section 112 rulemaking efforts, however, EPA did not receive many data. While the agency was not left entirely lacking in relevant information, the limited response from affected businesses and institutions did make it difficult for EPA to

delineate subcategories and calculate standards that fully reflected operational reality. The agency nevertheless was legally required to publish proposed subcategories and standards based on the information it had at the time.

Fortunately, a number of potentially affected businesses and institutions responded to EPA's published proposal by giving the agency relevant data that it had not possessed at the time of the proposal. The agency will make exhaustive use of all of the relevant data received during the period for public comment. EPA is now learning things that it did not know before about the particulars of affected sectors and facilities. The final standards will reflect the agency's new learning, and that is how the rulemaking process is supposed to work. In fact, EPA is so committed to ensuring that the final standards will reflect all of the relevant information received during the public comment period that the agency has just sought and obtained from the District Court a one-month postponement, until January 16, 2011, of the deadline for issuing the final Boiler NESHAP. EPA is taking the necessary time to get the final standards right.

Businesses that burn biomass in their boilers and process heaters are particularly worried that the limited information underlying EPA's proposed subcategories and standards might cause many boilers that currently burn renewable biomass to shut down entirely or to convert to burning non-renewable fossil fuels. Please know that EPA is paying particular attention to the subject of biomass-fired boilers and process heaters as the agency works to develop final standards. In your letter, you reference EPA's projection regarding new major-source boilers that burn biomass. That projection, which comes originally from the Energy Information Administration ("EIA"), is not based on the Boiler NESHAP or the CISWI Rule. Neither EPA nor EIA is projecting that these rules will cause anything like the cessation of the domestic biomass industry.

While many businesses are pleased that EPA solicited comment on using Section 112(d)(4) of the Clean Air Act to set a health-based standard (as opposed to a purely technology-based standard) for certain hazardous air pollutants such as hydrogen chloride, those same businesses believe that EPA should have identified the establishment of a health-based standard as the agency's preferred outcome. The discretionary establishment of a health-based standard would need to be based on an adequate factual record justifying it. EPA did not identify a health-based standard as a preferred outcome in the proposal, because the agency did not possess at the time of the proposal a factual record that could justify it.

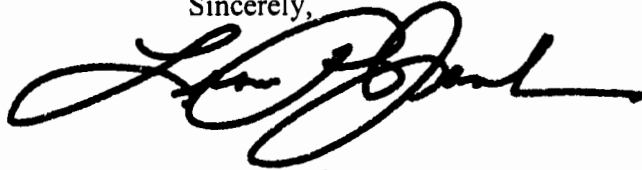
The pollution control equipment that limits emissions of hydrogen chloride also happens to limit emissions of other highly toxic air emissions, including acid gases. Thus, while a health-based standard might be justified for hydrogen chloride in isolation, EPA needs to consider the ramifications of such an alternative for the control of other highly toxic pollutants. With that said, EPA has taken note of the public comments on the establishment of a health-based standard. Several stakeholders commented, for example, that most biomass might contain less acid gas than most fossil fuels, potentially making biomass-fired boilers and process heaters better candidates than fossil fuel-fired ones for a health-based standard. EPA will carefully evaluate the substance and relevance of those comments, as well as any additional data submitted during the public comment period, before making a final decision on the establishment of any health-based standard.

In recent weeks, two industry trade associations issued two separate presentations, each claiming that the Boiler NESHAP and CISWI Rule would cost the U.S. economy jobs. The presentations differ significantly from each other when it comes to the number of jobs that allegedly would be lost. Moreover, the associations' methods for reaching their projections are in several respects opaque and in others clearly flawed. For example, they neglect to count the workers who will be needed to operate and maintain pollution control equipment and to implement work practices that reduce emissions.

Perhaps the most important observation to make about the two associations' claims, however, is that they pertain to a proposal, rather than to a final EPA action. For reasons stated earlier in this reply, the final standards will most assuredly differ from the proposed ones. The differences will demonstrate EPA's intent focus on making the regulatory subcategories appropriately reflect industrial variation in the real world, and on aligning the standards in each subcategory with the performance that real-world conditions prove are already achievable. The Clean Air Act does not place our need to increase employment in conflict with our need to protect public health. EPA's final standards will not either.

Again, thank you for your letter. If you have additional questions, please do not hesitate to contact me, or to have your staff contact David McIntosh in EPA's Office of Congressional and Intergovernmental Relations.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", with a long horizontal flourish extending to the right.

Lisa P. Jackson



SUSAN M. COLLINS  
MAINE

413 DIRKSEN SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-1804  
(202) 224-2583  
(202) 224-2883 (FAX)

## United States Senate

WASHINGTON, DC 20510-1804

September 15, 2010

COMMITTEES:  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
RANKING MEMBER  
APPROPRIATIONS  
ARMED SERVICES  
SPECIAL COMMITTEE  
ON AGING

The Honorable Lisa Jackson  
Administrator  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Ms. Jackson:

I am writing to inquire about the review process for the Environmental Protection Agency's Office of Water Proposed Method Update Rule for 40 CFR Part 136 and to request that consideration be given to promising methods EPA did not include in its rule. I am concerned that ASTM Method D7575 "Standard Test Method for Solvent-Free Membrane Recoverable Oil and Grease by Infrared Determination" was not included as regulated method for determining oil and grease.

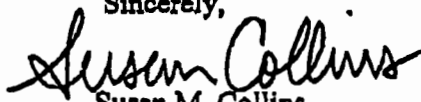
According to EPA staff, there is no standard process for a new method to be proposed for 40 CFR Part 136. Thus, in April 2009, the Maine company that developed ASTM Method D7575 contacted EPA to inquire about new methods and was told that approval as an ASTM method and other testing would be required. The company's method was approved by the rigorous ASTM process in December 2009. Also, the company worked in close consultation with officials at EPA's Office of Water on other tests the company was led to believe would be sufficient for inclusion in the Proposed Method Update Rule. However, EPA did not include ASTM Method D7575 in the pre-publication copy of the Proposed Method Update Rule.

I am very concerned that there was not a clear process for this company to follow for its technology to be considered by EPA and that the method is not part of the Proposed Method Update Rule. It is my understanding that ASTM Method D7575 is a less expensive, faster, and non-toxic alternative to the current method and was tested with guidance from EPA staff. Also, it has been recognized by EPA's Green Chemistry program. This small company of 11 employees has invested \$1.5 million in developing this environmentally friendly technology.

I urge you to reconsider your decision to exclude ASTM Method D7575 in the Proposed Method Update Rule for 40 CFR Part 136 and ask that you delay Federal Register publication of the proposed rule until EPA completes its review. Additionally, I urge you to establish clear criteria and protocols for new methods so that in the future companies will be judged fairly on the merits of their methods and not face subjective interpretations about the burden of proof for new methods.

Thank you for consideration of my concerns.

Sincerely,



Susan M. Collins  
United States Senator

CC: Cass Sunstein, Administrator, Office of Information and Regulatory Affairs



PRINTED ON RECYCLED PAPER



UNITED STATES SENATOR • MAINE  
**SUSAN COLLINS**  
FAX COVER SHEET



TO: Administrator Lisa Jackson  
OFFICE: Environmental Protection Agency  
FAX NO: (202) 501-1450  
FROM: Morgan Cashwell  
PHONE: (202) 224-9232  
DATE: Sept 15, 2010  
PAGES (including this cover sheet): 2

NOTE: \_\_\_\_\_  
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 22 2010

OFFICE OF  
WATER

The Honorable Susan M. Collins  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

Thank you for your letter of September 15, 2010, addressed to Administrator Lisa Jackson of the Environmental Protection Agency (EPA), regarding the proposed Methods Update Rule for 40 CFR Part 136. The Office of Water manages the Clean Water Act program that developed this proposed rule, and I am pleased to reply on her behalf.

The proposed Methods Update Rule requests comment on approving additional analytical methods for measuring regulated pollutants in wastewater into 40 CFR Part 136. The regulated community and laboratories use these approved methods for determining compliance with National Pollutant Discharge Elimination System permits or other monitoring requirements. The Environmental Protection Agency periodically updates the list of approved methods to reflect advances in technology and provide entities more choices of approved compliance monitoring methods. The recently-proposed Methods Update Rule is the latest update.

This proposed rule was published on September 23, 2010, and the public comment period will be open through late November 2010.

EPA considered many methods during development of the proposed rule, including methods for measurement of oil and grease. Oil and grease is part of a small class of method-defined parameters that include biological and chemical oxygen demand, and total suspended solids. These measurements differ from typical chemical methods of analysis because the way in which the parameter is measured determines the value of that parameter. In the case of oil and grease, the amounts extracted from a sample depend on the type of chemical solvent used to extract the oil and grease. That solvent was freon until it was banned by an international treaty. The Agency has tested various solvents to obtain a solvent that would give results similar to Freon, and found n-hexane to be the replacement.

In the Methods Update Rule, EPA considered five oil and grease methods published by either ASTM, International or by the Standard Methods Committee. Of these five methods, the Agency proposed only the two that use n-hexane as the extracting solvent, and explained why we

did not propose the other three that do not use n-hexane. These three methods included one from Standard Methods and two from ASTM. Method D7575, which was developed by Orono Spectral Solutions (OSS), Inc., was one of the ASTM methods not proposed for approval at Part 136.

My staff met with members of your staff and representatives of OSS on September 29, 2010. Additional information was presented by OSS at that meeting, and my staff agreed to reevaluate OSS's Method D7575 for comparability with the current n-hexane based oil and grease methods. Our first step is to determine if OSS needs to submit additional, existing data to us for this review. We plan to coordinate closely with OSS throughout this review, and to keep your staff informed of our progress.

Again, thank you for your letter. If you have additional questions, please contact me, or ask your staff to call Denis Borum in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-4836.

Sincerely,

A handwritten signature in black ink, appearing to read "Pet Silva", with a stylized flourish at the end.

Peter S. Silva  
Assistant Administrator

AL-09-000-2702

SUSAN M. COLLINS  
MAINE

413 DIRKSEN SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-1904  
(202) 224-2523  
(202) 224-2693 (FAX)

## United States Senate

WASHINGTON, DC 20510-1904

COMMITTEES:  
HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS,  
RANKING MEMBER  
ARMED SERVICES  
SPECIAL COMMITTEE  
ON AGING

68 Sewall Street, Room 507  
Augusta, ME 04330  
February 12, 2009

Ms. Joyce Frank  
Acting Associate Administrator for  
Congressional and intergovernmental Relations  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW 1301A  
Washington, DC 20460

Dear Ms. Frank:

U.S. Senator Susan Collins was contacted by Mr. *Sk. Le* of Waterville, Maine who is requesting assistance in getting in touch with Environmental Protection Agency engineers in North Carolina. Enclosed is a copy of his letter to Senator Collins as well as a typed copy I prepared for your reading convenience.

Mr. *Sk. Le* is an engineer working on an independent study regarding smoke levels. He indicated that his advocacy is vital to protect life and the health safety for millions of Americans. He indicates he has serious concerns regarding air quality levels produced from wood boilers, wood stoves and older type fireplaces. He has tried unsuccessfully to contact EPA engineers in North Carolina to discuss his findings and to request assistance with the concerns he outlines in his letter.

Your assistance in providing a response to Mr. *Sk. Le* concerns or having an appropriate engineer contact him directly would be greatly appreciated. He can be reached directly by calling (207) 861-5765. Thank you for your time and efforts on behalf of Senator Collins and this constituent.

Sincerely,



Michelle P. Michaud  
Staff Assistant to  
Susan M. Collins  
United States Senator

Enclosure

TO: SEN. COLLINS  
FROM: ERNEST GRUBIN  
19 JOHNSON HTS  
WATERVILLE ME 04901.  
861-5765.

I NEED YOUR HELP GETTING  
SUPPRESSED INFORMATION VITAL  
TO THE HEALTH OF MILLIONS.

PLEASE GET: MODELING ESTIMATES  
OF PM<sub>2.5</sub> FROM AVE OLD FIREPLACES  
AND STOVES (40,000 BTU/Hr)

MY ESTIMATES SHOW THEY ARE  
LIFE THREATENING! CHANGES  
ARE TOO SLOW.

I NEED THIS ASAP. LIVES ARE AT  
RISK.

THE EPA NORTH CAROLINA OFFICE  
CAN CALL THIS IN 5 MINUTES,  
BUT THEY WON'T DO IT FOR ME.

THANKS

VB

To: Senator Collins

From: [REDACTED]

Waterville, ME 04901

I need your help getting suppressed information vital to the health of millions.

Please get modeling estimates of PM 2.5 from average old fireplaces and stoves (40,000 BTU/ per hr.)

My estimates show they are life threatening! Change outs are too slow.

I need this ASAP. Lives are at risk

The EPA North Carolina Office can calculate this in 5 minutes, but they won't do it for me.

Thanks,



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 01 2009

OFFICE OF  
AIR AND RADIATION

The Honorable Susan M. Collins  
United States Senate  
Washington, D.C. 20510-1904

Dear Senator Collins:

Thank you for your letter of February 12, 2009, to the U.S. Environmental Protection Agency (EPA). We appreciate your interest in responding to your constituent, Mr. [REDACTED]. We understand Mr. [REDACTED] concerns with wood smoke in his community and agree that old inefficient wood-burning appliances and fireplaces are a health concern. That is why many communities are taking steps to reduce wood smoke through wood stove changeout programs.

In the past few months, my staff has had several discussions with Mr. [REDACTED] who is interested in conducting local modeling analysis. We are continuing our discussions with him and have provided him with wood stove and fireplace emissions information. Unfortunately, we are not able to provide him with air quality modeling results for individual woodstoves or fireplaces because EPA does not possess the requested modeling information. We have directed Mr. [REDACTED] to contact the Maine Department of Environmental Protection, Bureau of Air. They are equipped to perform the local-scale modeling which will take into account several locally-driven variables such as release height, exit velocity, atmospheric temperature, wind speed, and wind direction.

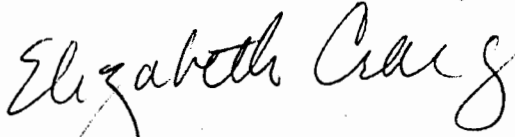
EPA takes seriously the air pollution resulting from wood burning. For example, we are beginning to analyze emissions from certain types of pre-fabricated fireplaces that are sold to builders for installation in new home construction. We are working with the manufacturers of these fireplaces to have them voluntarily produce new units that are 50 to 70 percent cleaner than existing units on the market today. By the end of this year, we expect to have modeling results to evaluate the effectiveness of these cleaner burning fireplaces. If you are interested, we can provide you these results. We also have other programs to reduce wood smoke. These programs are detailed at <http://www.epa.gov/woodstoves/>.

In addition, EPA has also initiated a review, under the Clean Air Act, of the New Source Performance Standards for new residential wood heaters, which will include data from wood burning products, including wood stoves. Depending on the results of the review, which should take about a year, EPA may propose revisions to the rule.



Again, thank you for your letter. If you have further questions, please contact me or your staff may call Josh Lewis, in EPA's Office of Congressional and Intergovernmental Relations, at 202-564-2095.

Sincerely,

A handwritten signature in black ink that reads "Elizabeth Craig". The signature is written in a cursive style with a large, looping "E" and a long, sweeping "g".

Elizabeth Craig  
Acting Assistant Administrator

**THE WHITE HOUSE OFFICE  
REFERRAL**

July 24, 2012

**TO:** ENVIRONMENTAL PROTECTION AGENCY

**ACTION COMMENTS:**

**ACTION REQUESTED:** DIRECT REPLY W/COPY

**REFERRAL COMMENTS:**

**DESCRIPTION OF INCOMING:**

**ID:** 1089002

**MEDIA:** EMAIL

**DOCUMENT DATE:** July 19, 2012

**TO:** PRESIDENT OBAMA

**FROM:** THE HONORABLE SUSAN COLLINS  
UNITED STATES SENATE  
WASHINGTON, DC 20510

**SUBJECT:** EXPRESSES COMMENT ON THE ENVIRONMENTAL PROTECTION AGENCY  
BOILER MACT RULES

**COMMENTS:**

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PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT,  
UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE UNDERSIGNED AT (202) 456-2590.

RETURN ORIGINAL CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: DOCUMENT TRACKING UNIT,  
ROOM 63, OFFICE OF RECORDS MANAGEMENT - THE WHITE HOUSE, 20500

7/23/2012

**THE WHITE HOUSE  
DOCUMENT MANAGEMENT AND  
TRACKING WORKSHEET**



**DATE RECEIVED:** July 23, 2012

**CASE ID:** 1089002

**NAME OF CORRESPONDENT:** THE HONORABLE SUSAN COLLINS

**SUBJECT:** EXPRESSES COMMENT ON THE ENVIRONMENTAL PROTECTION AGENCY BOILER MACT RULES

ROUTE TO: AGENCY/OFFICE	(STAFF NAME)	ACTION		DISPOSITION		DATE COMPLETED
		CODE	DATE	TYPE RESPONSE	CODE	

LEGISLATIVE AFFAIRS	ROB NABORS	ORG	07/23/2012		
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**ACTION COMMENTS:**

✓ ENVIRONMENTAL PROTECTION AGENCY		R	07/24/2012		
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**ACTION COMMENTS:**

**ACTION COMMENTS:**

**ACTION COMMENTS:**

**ACTION COMMENTS:**

**COMMENTS:** 7 ADDL SIGNEES

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ORM

**MEDIA TYPE:** EMAIL

**USER CODE:**

ACTION CODES	DISPOSITION		
	TYPE RESPONSE	DISPOSITION CODES	COMPLETED DATE
A = APPROPRIATE ACTION B = RESEARCH AND REPORT BACK D = DRAFT RESPONSE I = INFO COPY/NO ACT NECESSARY R = DIRECT REPLY W/ COPY ORG = ORIGINATING OFFICE	INITIALS OF SIGNER (W.H. STAFF) NRN = NO RESPONSE NEEDED OTBE = OVERTAKEN BY EVENTS	A = ANSWERED OR ACKNOWLEDGED C = CLOSED X = INTERIM REPLY	DATE OF ACKNOWLEDGEMENT OR CLOSEOUT DATE (MM/DD/YY)

7/23/2012

**KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES**  
**REFER QUESTIONS TO DOCUMENT TRACKING UNIT (202)-456-2690**  
**SEND ROUTING UPDATES AND COMPLETED RECORDS TO OFFICE OF RECORDS MANAGEMENT - DOCUMENT TRACKING UNIT**  
**ROOM 63, EEOB.**

# United States Senate

WASHINGTON, DC 20510

July 19, 2012

The Honorable Barack Obama  
President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

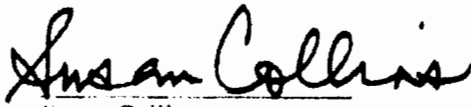
Dear President Obama:

Given that the U.S. Environmental Protection Agency (EPA) has transmitted to OMB the reconsidered rules with regard to industrial boilers, known as the Boiler MACT rules, we are writing to reiterate our interest in this issue of great concern to manufacturers across the country. It has been our shared goal to ensure that the final Boiler MACT rules are achievable, affordable, and protective of public health and the environment, while preventing the loss of thousands of jobs that we can ill-afford to lose. Since the rules were first proposed, we acknowledge that significant revisions have been made. However, we continue to believe that the final rule must be strengthened to include additional compliance time to enable facilities that will be investing billions of dollars to rationally plan for the capital expenses, to clarify the fuel status of key biomass materials, and to establish achievable carbon monoxide (CO) limits for all fuels to ensure the intended benefits.

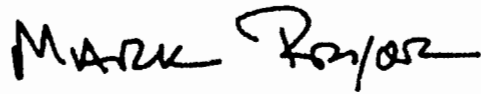
Considering the number of facilities involved and the complexity of the rules, it is necessary to provide compliance time beyond the traditionally provided three years, and we believe this is possible within the authorities provided to EPA and the President under the Clean Air Act. We request that the rules require that EPA or the states provide an extra year to comply if a facility meets reasonable criteria. We also believe that an additional year is warranted through presidential action. Additionally, the rules should clarify the status of key biomass residuals as fuels so that these materials can be used productively rather than placed into landfills with negative environmental consequences. The Boiler MACT rules should list wastewater treatment residuals as non-waste fuels, create a safe harbor or presumption for other biomass residuals, and eliminate the presumption that materials are wastes until proven otherwise. Finally, the current CO limits under the Boiler MACT rules, which are currently unachievable, should be adjusted for all fuels – biomass, coal, and oil – for both new and existing sources. These standards should be based on the capabilities of real-world boilers.

Final Boiler MACT rules that include flexibility to make the rules achievable and that are consistent with the intent of the Clean Air Act and your Executive Order 13563 to “identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends,” are critical to preserving jobs in many manufacturing industries. The rules as they stand today could cost billions of dollars and thousands of jobs. We urge you to carefully consider this need for flexibility and these points as you evaluate the EPA’s proposal.

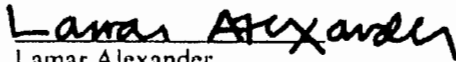
Sincerely,




Susan Collins  
United States Senator



Mark Pryor  
United States Senator



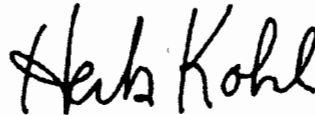
Lamar Alexander  
United States Senator



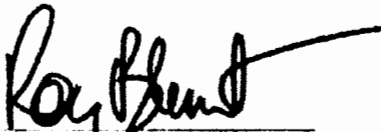
Mary Landrieu  
United States Senator



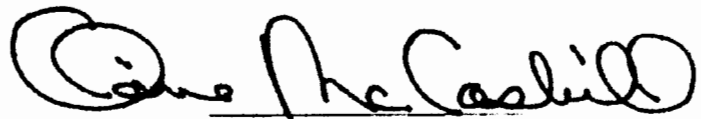
Lisa Murkowski  
United States Senator



Herb Kohl  
United States Senator



Roy Blunt  
United States Senator



Claire McCaskill  
United States Senator

Copy To:

The Honorable Jack Lew, Chief of Staff, Executive Office of the President  
The Honorable Cass Sunstein, Administrator, Office of Information and Regulatory  
The Honorable Lisa Jackson, Administrator, Environmental Protection Agency  
The Honorable Jeffrey Zients, Acting Director, Office of Management and Budget

SUSAN M. COLLINS  
SENATOR

U.S. SENATOR FROM MAINE  
WASHINGTON, D.C. 20510-1904  
202-224-4773  
COLLINS@SENATE.Senate.gov

COMMITTEES:  
HOME AND SECURITY AND  
GOVERNMENTAL AFFAIRS  
BANKING, HOUSING,  
AND INVESTMENT  
ARMED SERVICES  
SPECIAL COMMITTEE  
ON AGING

## United States Senate

WASHINGTON, DC 20510-1904

October 14, 2011

The Honorable Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building, Mail Code: 1101A  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Jackson:

I want to bring to your attention a letter I received from Commissioner Patricia Aho of the Maine Department of Environmental Protection (DEP) regarding an EPA wetlands restoration plan for a private property in Etna, ME. The letter is attached for your convenience.

Discussions among the DEP, EPA and the property owner to determine an appropriate restoration plan have been taking place since a farm pond was constructed in 2007. It is also my understanding that while DEP has agreed with the property owner's wetland restoration concept plan #4, which allows for a partial wetland restoration, a complete restoration plan is currently under discussion by EPA. It is my hope that EPA will review the attached correspondence from Commissioner Aho, detailing DEP's concerns about EPA's restoration plan, and give DEP's concerns fair consideration before making a final determination. I request that you communicate directly with Commissioner Aho regarding the concerns outlined in her letter, and thank you in advance for working with DEP and the property owner to resolve the outstanding issues.

Thank you for your attention to this matter.

Sincerely,



Susan M. Collins  
United States Senator





STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE  
GOVERNOR

PATRICIA W. AHO  
ACTING COMMISSIONER

RECEIVED SEP 12 2011

August 29, 2011

The Honorable Susan R. Collins  
413 Dirksen Senate Office Building  
Washington, DC 20510

RE: Wetland restoration - Etna, Maine

Dear Senator Collins:

I recently had an opportunity to meet with members of your staff to discuss a wetland restoration plan for a property located in Etna, Maine. Members of the meeting included: Carole Woodcock; Michael Noyes; Trey Hicks; Lee Burman (S. W. Cole); Patricia Aho, Acting Commissioner; Jim Beyer, Maine DEP; and Senator Douglas Thomas.

Our meeting was to discuss the various issues related to a wetland restoration plan and project on private property in Etna, Maine. The issues surrounding this project have been on-going since the fall of 2007 when a farm pond was constructed. Following the construction, Maine DEP issued a Notice of Violation and eventually, during November 2009, US EPA sent an informational request letter regarding the project. Since 2009 until recently, discussions between Maine DEP, US EPA and the property owner have continued in order to determine an appropriate restoration plan regarding the farm pond.

Maine DEP has agreed with the property owner's wetland restoration concept plan #4, as an appropriate restoration plan for the property. The plan will allow for a partial wetland restoration rather than a full and complete restoration which is currently being requested by US EPA. We believe that the concept plan #4 will provide a pragmatic approach and allows for a partial restoration.

Requiring a complete restoration plan, which is currently under discussion by US EPA, presents some concerns. We are doubtful that wetland hydrology can be completely and fully restored, thus, if the property owner is required to undertake total removal of the farm pond, and then not have the wetland hydrology restored, it will have required the property owner to undertake significant work without restoring the area as intended. We are also concerned the proposed construction project by US EPA is a fairly difficult undertaking with the need to ensure that elevations are appropriately created, compaction of the soil be exact, and it is still unclear the appropriate manner in which the removal the water from the pond should be undertaken.

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX: (207) 287-7826  
RAY BLDG., HOSPITAL ST.

BANGOR  
106 HOGAN ROAD, SUITE 6  
BANGOR, MAINE 04401  
(207) 941-4570 FAX: (207) 941-4584

PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04679-2094  
(207) 764-0477 FAX: (207) 760-3143

web site: [www.maine.gov/dep](http://www.maine.gov/dep)



Letter to Senator Susan Collins  
August 29, 2011  
Page 2 of 2

The water could be pumped out, but the rate at which the pumps would have to run would erode the area downhill from the pond which ultimately turns into a stream. Finally, there would be a need to address the muddy water which would be displaced as the pond is filled. Even if the pond could be pumped down, some water will remain and ground water will flow into the pond, which will then need to be pumped out.

We believe the restoration concept plan #4 does in fact restore wetland functions and values and under the state's Natural Resources Protection Act, wetlands with 20,000 square feet or more of open water are wetlands of special significance for a reason, because with open water, habitat which is valuable for fish and wildlife is present which is not found in wetlands that do not have open water.

For these reasons, Maine DEP approved the wetland restoration plan. However, the property owner is now caught between two dueling agencies, in regards to what will be approved for the restoration. We would encourage you to determine whether a solution can be provided in order for the property owner to undertake the restoration work, which is practical, and which will provide for wetland habitat for fish and wildlife.

I thank your staff for arranging the meeting for us to discuss our thoughts and approaches to a potential solution, and would be happy to provide you and your staff with any additional information which you might find helpful.

I sincerely appreciate your consideration of this particular issue.

Best regards,

  
Patricia W. Aho  
Acting Commissioner

cc: Michael Mullen, Acting Director, Bureau of Land & Water Quality, MDEP  
Carole Woodcock, Staff to Senator Susan Collins



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1  
5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MA 02109-3912

October 31, 2011

The Honorable Susan M. Collins  
United States Senate  
Washington, DC 20510

OFFICE OF THE  
REGIONAL ADMINISTRATOR

Dear Senator Collins:

Thank you for your October 14, 2011 letter to EPA Administrator Lisa Jackson which enclosed an August 29, 2011 letter from Commissioner Patricia Aho of the Maine Department of Environmental Protection ("DEP") regarding an EPA Region I wetlands restoration plan at property owned by Charles Craig in Etna, Maine. At this property a violation of Section 404 of the Clean Water Act, 33 U.S.C. § 1344, occurred in 2007.

We appreciate your interest in this case, and want to assure you that we are working with both Mr. Craig and the DEP to ensure that adequate wetlands restoration is achieved at this site. As mentioned in my June 27, 2011 letter to you on this matter, under long-standing EPA policy, we cannot discuss specific information regarding negotiations in this case. However, we are able to give you an update on the progress of this matter based on publicly available information.

As we have advised your staff, EPA issued Administrative Order 11-107 (the "Order") to Mr. Craig pursuant to 309(a) of the Clean Water Act on August 23, 2011. The Order required Mr. Craig to submit a plan prepared by an engineer and wetland consultant for restoration of the altered wetland, and stated that Mr. Craig may retain up to 15,000 square feet of the pond as open water. On September 22, 2011, Mr. Craig's consultant, S.W. Cole, submitted a conceptual plan (Concept Plan #5) to EPA.

We agree that many of the questions raised by DEP Commissioner Patricia Aho in her August 29, 2011 letter are important ones, including how the pond should be drained to allow restoration to occur. The engineered restoration plan required by the Order is intended to address these types of questions. EPA will carefully review the engineering information to be provided by Mr. Craig, and will work with Mr. Craig and DEP to resolve the questions presented by Commissioner Aho.

Finally, as you requested, I am also coordinating directly with Commissioner Aho regarding the concerns outlined in her letter.

I appreciate your interest in this matter. If you have further questions, please contact me, or your staff may contact Ms. Michael Ochs in the Office of Congressional Relations at (617) 918-1066.

Sincerely,

A handwritten signature in black ink, appearing to read "H. Curtis Spalding".

H. Curtis Spalding  
Regional Administrator

cc: Commissioner Patricia Aho, Maine DEP



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 1  
5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MA 02109-3912

October 31, 2011

Commissioner Patricia W. Aho  
Maine Department of Environmental Protection  
17 State House Station  
Augusta, ME 04333-0017

OFFICE OF THE  
REGIONAL ADMINISTRATOR

Dear Commissioner Aho:

I have been asked to respond on behalf of EPA Administrator Jackson to the concerns outlined in your letter to Senator Collins dated August 29, 2011, regarding EPA's requirements for a restoration plan to address the violations of Section 404 of the Clean Water Act (the "Act"), 33 U.S.C. § 1344, at property owned by Charles Craig, in Etna, Maine.

I appreciate the opportunity to address this matter directly with you, since EPA and Maine DEP, as co-regulators, are working together to address these violations. As you know, EPA issued an Administrative Order (the "EPA Order") to Mr. Craig under Section 309(a) of the Clean Water Act on August 23, 2011. This order required Mr. Craig to submit a plan prepared by an engineer for restoration of the wetland and 250 linear feet of the stream flowing into the wetland, with the proviso that he could retain a pond of less than 15,000 square feet. On September 22, 2011, Mr. Craig's consultant, S.W. Cole, submitted a conceptual plan (Concept Plan #5) to EPA. Although not an engineered restoration approach as required by the Order, Concept Plan #5 does meet the EPA objective of restoration of the stream and wetland, including an open water area of less than 15,000 square feet. EPA has told Mr. Craig that Concept Plan #5 is a good first step.

EPA Region I originally became involved in this case after Mr. Craig failed to comply with an Administrative Consent Agreement with your office, in which Maine DEP determined that Mr. Craig had violated the Maine Natural Resources Protection Act by altering 75,000 square feet (1.72 acres) of freshwater wetlands and in which Mr. Craig agreed to submit a restoration plan by June 15, 2008. Mr. Craig did not submit the restoration plan at that time, but instead applied for after-the-fact permits one year later from both Maine DEP and the Army Corps of Engineers (the "Corps") to allow him to keep the pond.<sup>i</sup> The Corps determined that the construction of the pond, as conducted, could not be permitted under Section 404 of the Clean Water Act, 33 U.S.C. § 1344, and referred the matter to EPA. Once EPA is engaged in an enforcement situation, EPA applies its policy to require complete restoration of wetlands, except where there is no practicable way to implement it. The purpose of this policy is to assure compliance with Section 404 of the Clean Water Act, to replace the functions and values of the impacted wetlands, and to maintain a level playing field by ensuring that all discharges (whether permitted or not) are evaluated using the same guidelines.

Since EPA became involved, we have worked with Jim Beyer of your staff to try to reach a joint approach to restoration that would satisfy state requirements and federal requirements. While we understand that Maine DEP's concerns may have been addressed, EPA has consistently sent the message that a resolution must address EPA's requirements as well.

We agree that the questions raised in your August 29, 2011 letter to Senator Collins are important ones, including how the pond should be drained to allow restoration to occur. These questions are not answered by the S.W. Cole Concept Plan #5. At this point, based on current information, we believe that these questions should be able to be solved using an engineered restoration plan, as required by the EPA Order. EPA will carefully review the engineering information to be provided by Mr. Craig, and will work with Mr. Craig and your staff to resolve these questions.

Thank you for your thoughts on this matter. I want to assure you that we very much want to continue the cooperative approach that Maine DEP and EPA have enjoyed with respect to enforcement in the past, with each agency satisfying its respective regulatory requirements and policies.

Please do not hesitate to contact me if you have additional questions concerning this matter.

Sincerely,



H. Curtis Spalding  
Regional Administrator

---

<sup>i</sup> To our knowledge, nothing in the record shows that this pond is to be used as a farm pond. Mr. Craig's attorney indicated that the pond was dug for aesthetic and mosquito control reasons; the after-the-fact permit applications indicates it is to be used as a fire pond.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

NOV 09 2012

THE ADMINISTRATOR

The Honorable Susan Collins  
Ranking Member  
Committee on Homeland Security  
and Government Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

I am pleased to support the charter renewal of the National Environmental Education Advisory Council in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The National Environmental Education Advisory Council is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The Committee will be in effect for two years from the date it is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App. 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Christina J. Moody in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over a horizontal line.

Lisa P. Jackson

Enclosure

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## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

---

### NATIONAL ENVIRONMENTAL EDUCATION ADVISORY COUNCIL

---

1. **Committee's Official Designation (Title):**

National Environmental Education Advisory Council

2. **Authority:**

This charter renews the National Environmental Education Advisory Council (NEEAC) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2. The NEEAC was created by Congress to advise, consult with, and make recommendations to the Administrator of the Environmental Protection Agency (EPA) on matters related to activities, functions and policies of EPA under the National Environmental Education Act (the Act). 20 U.S.C. § 5508(b).

3. **Objectives and Scope of Activities:**

The NEEAC will provide advice, information, and make recommendations on matters related to activities, functions and policies of EPA under the Act.

The major objectives are to provide advice and recommendations on:

- a. The biennial report to Congress assessing environmental education in the United States (§ 9(d)(1) of the Act).
- b. EPA's solicitation, review, and selection processes for the training and grant programs
- c. The merits of individual proposals to operate the § 5 training program and the § 6 grant program, as requested by EPA.
- d. Overall implementation of the Act.

4. **Description of Committees Duties:**

The duties of the NEEAC are to provide advice to EPA.

5. **Official(s) to Whom the Committee Reports:**

The NEEAC will submit advice and recommendations and report to the EPA Administrator through the Office of External Affairs and Environmental Education (OEAAEE).

6. **Agency Responsible for Providing the Necessary Support:**

EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Office of Environmental Education, within the Office of External Affairs and Environmental Education (OEAE), under the Office of the Administrator.

7. **Estimated Annual Operating Costs and Work Years:**

The estimated annual operating cost of the NEEAC is \$140,000 which includes 0.7 person-years of support.

8. **Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the DFO. The DFO or a designee will be present at all of the advisory committee's and subcommittee meetings. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

9. **Estimated Number and Frequency of Meetings:**

The NEEAC expects to meet approximately one (1) to two (2) times a year, subject to the availability of appropriations. EPA will pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, the NEEAC will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of Section 552(b) of Title 5, United States Code. Interested persons may attend meetings, appear before the committee as time permits, and file comments with the NEEAC.

10. **Duration and Termination:**

The Act specifically exempts the NEEAC from section 14(a) of the Federal Advisory Committee Act relating to termination 20 U.S.C. § 5508(b)(6). The NEEAC, however, will file a new charter every two years.

11. **Member Composition:**

The NEEAC will be composed of eleven (11) members appointed by the EPA Administrator, or designee, after consultation with the Secretary of the U.S. Department of Education. Members will serve as Special Government Employees (SGE), however, the conflict of interest provision at 18 U.S.C. § 208(a) does not apply to members' participation in particular matters which affect the financial interests of their employers. 20 U.S.C. § 5508(b)(2). SGE pay rates will be determined by EPA's Administrator, but may not exceed the daily equivalent of the annual rate for a GS-18 Federal employee.

As required by the Act, the membership of the NEEAC will consist of: two members representing primary and secondary education (including one classroom teacher); two members representing colleges and universities; two members representing not-for-profit organizations involved in environmental education; two members representing State departments of education and natural resources; two members representing business and industry; and one member representing senior Americans. In addition, a representative of the Secretary of Education will serve as an ex officio member and a representative of the National Environmental Education and Training Foundation may serve as an advisor to the NEEAC.

**12. Subgroups:**

EPA, or the NEEAC with EPA's approval, may form NEEAC subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the NEEAC for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the Agency.

**13. Recordkeeping:**

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with NARA General Records Schedule 26, Section 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

November 1, 2012

Agency Approval Date

NOV 09 2012

Date Filed with Congress





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 24 2012

THE ADMINISTRATOR

The Honorable Susan Collins  
Ranking Member  
Committee on Homeland Security  
and Government Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

I am pleased to renew the charter of the Governmental Advisory Committee in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The Governmental Advisory Committee is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The committee will be in effect for two years from the date the charter is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App. 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Christina J. Moody in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, which appears to read "Lisa P. Jackson", is written over a large, stylized, circular flourish.

Lisa P. Jackson

Enclosure

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

---

### GOVERNMENTAL ADVISORY COMMITTEE TO THE UNITED STATES REPRESENTATIVE TO THE NORTH AMERICAN COMMISSION FOR ENVIRONMENTAL COOPERATION

---

1. **Committee's Official Designation (Title):**

Governmental Advisory Committee to the United States Representative to the North American Commission for Environmental Cooperation

2. **Authority:**

This charter renews the Governmental Advisory Committee (GAC) to the United States Representative to the Council of the Commission for Environmental Cooperation (CEC) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The GAC is in the public interest and advises the U.S. Representative on implementation and elaboration of the North American Agreement on Environmental Cooperation (NAAEC). Establishment of the committee is authorized under article 18 of the NAAEC and by the North American Free Trade Agreement Implementation Act, P.L. 103-182, which authorizes U.S. participation in the CEC. Federal government responsibilities relating to the committee are set forth in Executive Order 12915, entitled "Federal Implementation of the North American Agreement on Environmental Cooperation."

3. **Objectives and Scope of Activities:**

The GAC will provide advice, information and recommendations on specific governmental issues. The GAC will evaluate a broad range of environment-related strategic, scientific, technological, regulatory and economic issues to be addressed in implementation and elaboration of the NAAEC.

4. **Description of Committee's Duties:**

The duties of the GAC are solely to provide advice to EPA.

5. **Official(s) to Whom the Committee Reports:**

The GAC will provide advice and recommendations and report to the Environmental Protection Agency (EPA) Administrator, who serves as the United States Representative to the Council of the CEC under the authority of Executive Order 12915.

**6. Agency Responsible for Providing the Necessary Support:**

EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Office of Federal Advisory Committee Management and Outreach, within the Office of the Administrator.

**7. Estimated Annual Operating Costs and Work Years:**

The estimated annual operating cost of GAC is \$166,000 which includes 0.7 person-years of support.

**8. Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the Designated Federal Officer (DFO). The DFO or a designee will be present at all of the advisory committee's and subcommittee meetings. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

**9. Estimated Number and Frequency of Meetings:**

The GAC expects to meet approximately three (3) times a year. Meetings may occur approximately once every four (4) months or as needed and approved by the DFO. EPA may pay travel and per diem expenses when determined necessary and appropriate. A full-time or permanent part-time employee of EPA will be appointed as the DFO.

As required by FACA, the GAC will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of Section 552b of Title 5, U.S.C. Interested persons may attend meetings, appear before the committee as time permits, and file comments with the GAC.

**10. Duration and Termination:**

This charter will be in effect for two years from the date it is filed with Congress. After this two-year period, the charter may be renewed in accordance with Section 14 of FACA.

**11. Member Composition:**

The GAC will be composed of approximately twelve (12) members who will serve as Representative members of non-federal interests, Regular Government Employees (RGEs), or Special Government Employees (SGEs). Representative members are selected to represent the points of view held by organizations, associations, or classes of individuals. In selecting members, EPA will consider candidates from State, local and tribal governments.

**12. Subgroups:**

EPA, or the GAC with EPA approval, may form GAC subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the GAC for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the U.S. Representative to the Council of the CEC.

**13. Recordkeeping:**

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with NARA General Records Schedule 26, Item 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

August 10, 2012  
Agency Approval Date

AUG 24 2012  
Date Filed with Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 24 2012

THE ADMINISTRATOR

The Honorable Susan Collins  
Ranking Member  
Committee on Homeland Security  
and Government Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

I am pleased to renew the charter of the National Advisory Committee in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The National Advisory Committee is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The committee will be in effect for two years from the date the charter is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App. 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Christina J. Moody in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, which appears to read "Lisa P. Jackson", is written over a horizontal line.

Lisa P. Jackson

Enclosure

## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

---

### NATIONAL ADVISORY COMMITTEE TO THE UNITED STATES REPRESENTATIVE TO THE NORTH AMERICAN COMMISSION FOR ENVIRONMENTAL COOPERATION

---

1. **Committee's Official Designation (Title):**

National Advisory Committee to the United States Representative to the North American Commission for Environmental Cooperation

2. **Authority:**

This charter renews the National Advisory Committee (NAC) to the United States Representative to the Council of the Commission for Environmental Cooperation (CEC) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The NAC is in the public interest and advises the U.S. Representative on implementation and elaboration of the North American Agreement on Environmental Cooperation (NAAEC). Establishment of the committee is authorized under article 17 of the NAAEC and by the North American Free Trade Agreement Implementation Act, P.L. 103-182, which authorizes U.S. participation in the CEC. Federal government responsibilities relating to the committee are set forth in Executive Order 12915, entitled "Federal Implementation of the North American Agreement on Environmental Cooperation."

3. **Objectives and Scope of Activities:**

The NAC will provide advice, information and recommendations on a broad range of environment-related strategic, scientific, technological, regulatory and economic issues to be addressed in implementation and elaboration of the NAAEC.

4. **Description of Committee's Duties:**

The duties of the NAC are solely to provide advice to EPA.

5. **Official(s) to Whom the Committee Reports:**

The NAC will submit advice and recommendations and report to the Environmental Protection Agency (EPA) Administrator, who serves as the United States Representative to the Council of the CEC under the authority of Executive Order 12915.

**6. Agency Responsible for Providing the Necessary Support:**

EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Office of Federal Advisory Committee Management and Outreach, within the Office of the Administrator.

**7. Estimated Annual Operating Costs and Work Years:**

The estimated annual operating cost of the NAC is \$166,000 which includes 0.7 person-years of support.

**8. Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the Designated Federal Officer (DFO). The DFO or a designee will be present at all of the advisory committee's and subcommittee meetings. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

**9. Estimated Number and Frequency of Meetings:**

The NAC expects to meet approximately three (3) times a year. Meetings may occur approximately once every four (4) months or as needed and approved by the DFO. EPA may pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, the NAC will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of Section 552(b) of Title 5, U.S.C. Interested persons may attend meetings, appear before the committee as time permits, and file comments with the NAC.

**10. Duration and Termination:**

This charter will be in effect for two years from the date it is filed with Congress. After this two-year period, the charter may be renewed as authorized in accordance with Section 14 of FACA.

**11. Member Composition:**

The NAC will be composed of approximately twelve (12) members who will serve as Representative members of non-federal interests, Regular Government Employees (RGEs), or Special Government Employees (SGEs). Representative members are selected to represent the points of view held by organizations, associations, or classes of individuals. In selecting members, EPA will consider candidates from the following stakeholder categories: environmental groups and non-profit entities, business and industry, and educational institutions.

**12. Subgroups:**

EPA, or the NAC with EPA approval, may form NAC subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the NAC for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the U.S. Representative to the Council of the CEC.

**13. Recordkeeping:**

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with NARA General Records Schedule 26, Item 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

August 10, 2012

Agency Approval Date

AUG 24 2012

Date Filed with Congress





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 14 2012

THE ADMINISTRATOR

The Honorable Susan Collins  
Ranking Member  
Committee on Homeland Security  
and Government Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

I am pleased to support the charter renewal of the Gulf of Mexico Citizen Advisory Committee in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The Gulf of Mexico Citizen Advisory Committee is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The Committee will be in effect for two years from the date it is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App. 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Christina J. Moody in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, which appears to read "Lisa P. Jackson", is written over a horizontal line.

Lisa P. Jackson

Enclosure

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## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

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### GULF OF MEXICO CITIZEN ADVISORY COMMITTEE

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1. **Committee's Official Designation (Title):**

Gulf of Mexico Citizen Advisory Committee

2. **Authority:**

This charter is renewed in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2. The committee was formerly named the Gulf of Mexico Executive Council. The Gulf of Mexico Citizen Advisory Committee (GMCAC) is in the public interest and supports the Environmental Protection Agency (EPA) in performing its duties and responsibilities under the Clean Water Act (CWA), as amended (33 U.S.C. 1251-1387).

3. **Objectives and Scope of Activities:**

In order to engage the public in actions to improve conditions of the Gulf of Mexico, the Administrator directed the establishment of the GMCAC.

The GMCAC will provide advice, information and recommendations to the Administrator on policy and technical issues associated with habitat conservation and restoration, improvements in water quality, and protection of living, coastal and marine resources of the Gulf of Mexico. The recommendations of the GMCAC also may potentially fulfill a need for public engagement to inform EPA's participation in implementing its responsibilities under the RESTORE Act. The GMCAC may advise on issues that cut across several program areas or initiatives that directly impact the Gulf.

The major objectives are to provide advice and recommendations and citizens' views on:

- a. Revitalizing and building resilient Gulf Coast communities to protect and sustain them against deteriorating environmental and economic conditions;
- b. Developing habitat conservation and restoration strategies and actions designed to restore and conserve key Gulf Coast habitats such as coastal wetlands, estuaries, barrier islands, upland habitats, seagrass beds, corals, and offshore habitats;
- c. Assessing and improving Gulf Coast water quality by reviewing watershed management practices and using careful science-based review and innovative approaches to enhance water quality; and

- d. Replenishing and protecting Gulf Coast living, coastal and marine resources by promoting resource management that focuses on the needs and functions of the ecosystem as a whole.

4. **Description of Committee's Duties:**

The duties of the GMCAC are solely to provide advice to the EPA.

5. **Official(s) to Whom the Committee Reports:**

The GMCAC will provide advice and recommendations and report to the EPA Administrator.

6. **Agency Responsible for Providing the Necessary Support:**

EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Gulf of Mexico Program Office, Office of Water, Region 4, and Region 6.

7. **Estimated Annual Operating Costs and Work Years:**

The estimated annual operating cost of GMCAC and supporting committees is \$250,000 which includes 1.0 person-years of support.

8. **Designated Federal Officer:**

A full-time or permanent part-time employee of the EPA will be appointed as the Designated Federal Officer (DFO). The DFO or a designee will be present at all of the advisory committee and subcommittee meetings. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

9. **Estimated Number and Frequency of Meetings:**

The GMCAC is expected to meet as often as necessary, but at least quarterly (in person or via conference call). Meetings may occur approximately once every 3 months or as needed and approved by the DFO. The EPA may pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, the GMCAC will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of Section 552b of Title 5, United States Code. Interested persons may attend meetings, appear before the committee as time permits, and file comments with the GMCAC.

**10. Duration and Termination:**

The GMCAC will be examined annually and will exist until the EPA determines the committee is no longer needed. This charter will be in effect for two years from the date it is filed with Congress. After the initial two-year period, the charter may be renewed as authorized in accordance with Section 14 of FACA.

**11. Member Composition:**

The chartered committee will be composed of approximately twenty-five (25) members who will serve as Representative members of non-federal interests, Regular Government Employees (RGEs), or Special Government Employees (SGEs). Representative members are selected to represent the points of view held by organizations, associations, or classes of individuals. In selecting members, the EPA will consider candidates who are citizens of the five Gulf coastal states (Alabama, Florida, Louisiana, Mississippi, and Texas).

**12. Subgroups:**

The EPA, or the GMCAC with the EPA's approval, may form subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the GMCAC for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the Agency.

**13. Recordkeeping:**

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with NARA General Records Schedule 26, Item 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

September 6, 2012

Agency Approval Date

September 7, 2012

GSA Consultation Date

**SEP 14 2012**

                      
Date Filed with Congress

MAR. 24. 2005 4:46PM

SUSAN M. COLLINS, MAINE, CHAIRMAN

TED STEVENS, ALASKA  
GEORGE V. Voinovich, OHIO  
NORM COLEMAN, MINNESOTA  
TOM COBURN, OKLAHOMA  
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FRANK LAUTENBERG, NEW JERSEY  
MARK PRYOR, ARKANSAS

NO. 653 P. 2

AL-05-000-4765

## United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
WASHINGTON, DC 20510-6250

MICHAEL D. BOFF, STAFF DIRECTOR AND CHIEF COUNSEL  
JOYCE A. RECHTSCHAFFEN, MINORITY STAFF DIRECTOR AND COUNSEL

March 24, 2005

The Honorable Stephen Johnson  
Acting Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Ave., Northwest  
Washington, DC 20460

Dear Acting Administrator Johnson:

I am writing to request a meeting to discuss my concerns regarding the Clean Air Mercury Rule and the February 3, 2005 EPA Inspector General report relating to this rule.

On March 7, 2005, I joined 30 of my colleagues in writing to the EPA to express grave concerns regarding the EPA's proposed mercury rule and the findings of the Inspector General report. We asked that the EPA act on the Inspector General's recommendations to perform additional analysis and correct a number of problems with the proposed rule. Nevertheless, it appears that the final Clean Air Mercury Rule, issued on March 15, 2005, largely ignored both our letter and the Inspector General report.

In addition to the Inspector General's report, I am troubled by recent news reports suggesting that important data on the benefits of controlling mercury emissions was withheld from the rulemaking process. I fail to see how the EPA can possibly maintain the appearance of propriety when a Harvard University study allegedly paid for and peer-reviewed by the EPA, and demonstrating a much higher level of health benefits than EPA's official estimates, was apparently not even considered in the rulemaking process.

I am very concerned that, in developing the Clean Air Mercury Rule, the EPA failed to live up to the high standards required of an agency so vital to the well-being of our health and environment. I look forward to meeting with you at your earliest convenience to discuss this matter.

I thank you in advance for your attention to my concerns.

Sincerely,



Susan M. Collins  
Chairman



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 13 2005

OFFICE OF THE  
ADMINISTRATOR

The Honorable Susan M. Collins  
United States Senate  
Washington, D.C. 20510

Dear Senator Collins:

Thank you for your March 24, 2005, letter regarding EPA's Clean Air Mercury Rule (CAMR). In your correspondence, you mention another letter, dated March 7, 2005 and cosigned by 30 of your colleagues. The concerns you raise in that letter, regarding an Inspector General report relating to the CAMR, will be addressed under separate cover. The remainder of this letter addresses the analyses supporting the Clean Air Mercury Rule (CAMR). The Agency recognizes that mercury is a toxic metal that can be harmful to human health and the Agency takes its responsibility to protect human health and the environment very seriously.

I appreciate this opportunity to explain EPA's use of science in the development of the CAMR and to clear up the misperception that if EPA only would regulate power plant emissions more strictly, exposure to the population would be significantly reduced.

The CAMR rule-development process was rigorous and included multiple opportunities for public input throughout, including following the proposal, the supplemental proposal and the notice of data availability. Over the entire rule-development process, the public had eleven months to submit comments before the final comment period closed on January 3, 2005. To imply that EPA's process was closed and that the Agency omitted consideration of a "key piece of analysis" in order to "maintain its story line" is both troubling and untrue. The Northeast States for Coordinated Air Use Management (NESCAUM) report that you refer to in your letter was submitted to the docket on February 22, 2005 – only a few weeks before the Agency was required to sign a final CAMR and well after the comment-submission deadline of January 3, 2005.

Well before the rulemaking deadline, EPA requested that the NESCAUM and Harvard researchers share the report with the Agency. EPA staff were briefed by one of the report authors in late August 2004 on some of the approaches they were considering and on January 3, 2005, received a brief summary of NESCAUM's forthcoming report. However, the submitted comments did not contain sufficient detail on the report's final methodology or results for EPA to rely on the information in the rulemaking. More importantly, EPA's review of these preliminary documents led the Agency to determine that the NESCAUM approach did not raise new issues not previously considered by the Agency that would be material to the rule.

In response to your inquiry, I asked EPA's experts to take a close look at the NESCAUM report. Their review of the full report only reinforced our assessment of the preliminary materials. Having been briefed on the report, I assure you that, had the report been submitted in a timely manner, our analysis of the CAMR would not have changed in any material way.

EPA's analyses supporting the CAMR represent Agency experts' best effort to evaluate the science, develop causal relationships, and estimate the benefits of the rule. Based upon our current understanding of the science, reduction in deposition of mercury emissions from power plants may reduce exposure to consumers of fish from freshwater ecosystems, and we can approximate that response by assuming a linear relationship between deposition and methylmercury in freshwater fish. However, the evidence does not support the application of this linear relationship to marine environments. The importance of this point cannot be understated because marine and ocean fish account for the vast majority of methylmercury exposure in the United States. As such, our analyses to support the CAMR quantify the neurological health benefits to children as a result of this rule based on reduced *in utero* exposure to mercury from freshwater, recreationally-caught fish. EPA considered all potential benefits, even those we concluded could not or should not be quantified (e.g. cardiovascular effects and reduction in marine fish concentrations). These non-quantified benefits are one of the reasons the Agency has promulgated a final mercury rule with quantified costs far greater than quantified benefits.

The CAMR was based on a thorough analysis of the science. The literature on the health effects of mercury is well-known to the scientific and social science communities. The NESCAUM report presents the same underlying science that the agency has spent years reviewing and upon which the CAMR is based. The NESCAUM report does not present any new scientific research on the health effects of mercury in humans. It is simply another analysis of existing literature, the body of which is well-known to scientists in the field. In addition, the NESCAUM report evaluates emission reduction requirements similar to those we adopted in the CAMR. It simply suggests that the benefits of the CAMR may be greater than EPA estimated quantitatively.

During my recent briefing, EPA experts identified several key places where the approach to quantification of benefits taken by NESCAUM differs from the approach determined by EPA to be appropriate for consideration in a regulatory context.

First, EPA quantified reductions in methylmercury concentrations in freshwater fish but concluded that the science of mercury cycling in marine systems is not sufficiently advanced to allow for a meaningful quantification of this exposure pathway. The NESCAUM report recognized that the simplified proportional relationship assumed between the reduction in mercury emissions and the reduction in methylmercury concentration in freshwater fish may not hold for marine environments, noting that:

Methylmercury concentrations in yellow fin tuna caught between 1971 and 1998 do not appear to have changed over time despite significant increases in surface water mercury concentrations in the area where these fish were caught (Kraepiel et al., 2003). Clearly, if these data reflect a general trend our estimates of changes

in methylmercury intake rates in the general population may be biased upward *and the possibility exists that there may be no change in marine fish methylmercury concentrations as a result of mercury emissions controls.*  
(Emphasis added)

Despite these reservations, the NESCAUM report quantifies this exposure pathway using assumptions that EPA experts believe are not supported by the literature, likely leading to a significant overestimate of benefits from reduced power plant emissions.

Second, EPA, looking at the same studies considered in the NESCAUM report, also performed a careful, comprehensive qualitative assessment of the cardiovascular risk of methylmercury exposure. EPA concluded for several reasons that a quantitative assessment was not appropriate. The NESCAUM report contains a similar qualitative assessment of the literature and it is clear that the researchers who wrote the NESCAUM report shared EPA's concerns about the uncertainty of quantifying cardiovascular benefits, noting that:

When compared to the body of epidemiologic data indicating that fish consumption may reduce the risk of myocardial events (e.g., Daviglus et al., 1997), the epidemiologic studies showing an association between methylmercury exposures and cardiovascular effects are comprised of a relatively small number of subjects and only three independent cohorts.

\*\*\*\*

Whether there is an increased cardiovascular risk associated with methylmercury exposures is not clear at this time. Thus, we recommend that the predicted benefits associated with premature mortality and non-fatal myocardial infarction be viewed with caution.

We strongly agree with the report conclusions that these estimates should be "viewed with caution." While the standard for inclusion of monetary estimates in an exploratory report is much lower than what would be appropriate for a regulatory support document, given the NESCAUM Report's conclusion about cardiovascular benefits, a fair presentation should provide a quantitative analysis of the uncertainty in the benefit estimates. The NESCAUM report does not do so.

Third, EPA commissioned Harvard researchers Dr. Louise Ryan and Dr. David Bellinger to perform an integrated analysis of the three major epidemiological studies of methylmercury exposure and used the relationship between exposure and neurological effects identified in that analysis to calculate benefits for the CAMR. In its 2000 report titled Toxicological Effects of Methylmercury, the National Academy of Science's National Research Council concluded that all three studies were useful and recommended that findings from all three be considered when evaluating methylmercury exposure. NESCAUM relied in part on a relationship identified in an unpublished study that would lead to much higher quantified neurological benefits than the relationship identified by Dr. Ryan and Dr. Bellinger. The unpublished study used by



NESCAUM was not identified in the report's references or submitted to the docket with the report so we have not had an opportunity to review it.

Fourth, EPA's estimates of the benefits of the CAMR are appropriately understood by viewing both the quantified benefits and the qualitative discussion. NESCUAM quantified additional possible routes of exposure and possible health endpoints. As acknowledged by the NESCAUM report, these estimates are more uncertain, but it should also be made clear that they are also less likely to represent real benefits such that the real benefits of the rule are likely to be far less than NESCAUM estimates.

Fifth, EPA accounted for the timeframe under which reduced mercury emissions would likely lead to reduced exposure to methylmercury. Adjusting for the timing of costs and benefits is standard practice. It does not appear that NESCAUM took this issue into account. EPA staff suggest that this omission leads to the benefits in the NESCAUM report being overstated, in addition to the other issues identified above, by a factor of two or more.

Finally, EPA performed an analysis of incremental costs and benefits to understand the advantages and disadvantages of pursuing more or less stringent utility mercury emission limits. NESCAUM focused on total benefits for emissions reductions similar to those required in the basic rule adopted by EPA. It is misleading to focus only on total benefits since there are diminishing returns associated with reductions beyond EPA's Clean Air Interstate Rule. An incremental analysis allowed EPA to compare alternative mercury-specific policies.

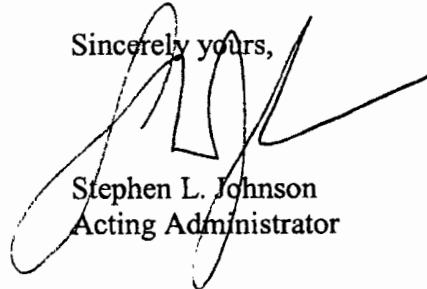
The CAMR trading approach is forward-looking. The flexibility of allowance trading creates financial incentives for coal-fired power plants to look for new and low-cost ways to reduce emissions and improve the effectiveness of pollution control equipment. We believe that staying the CAMR will only delay this progress.

Ultimately, we must recognize that the CAMR cannot provide a quick fix to the problem of mercury exposure since U.S. power plants contribute less than 1% of global mercury emissions each year and since marine and ocean fish account for the greatest source of methylmercury in the United States. The best way for women of childbearing age, pregnant and nursing mothers and young children to realize the benefits of eating fish and shellfish and be confident that they have reduced their exposure to the harmful effects of mercury is to follow the EPA-FDA Fish Advisory issued last year. EPA will continue to monitor scientific developments in the understanding of mercury, as well as continue its own efforts to advance the state of the science on mercury. Implementation of EPA's CAMR will not prevent this progress.

During the 1990's, the Agency was repeatedly sued for its slow pace in addressing mercury emissions from power plants. The Bush Administration is not advocating further delay to study the problem but is starting the effort to reduce emissions now while continuing to learn more. To the extent that new information warrants, EPA is committed to taking appropriate action consistent with that information. The protective and environmentally responsible time to act to control mercury emissions from power plants is now.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Catherine Sulzer in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-2464.

Sincerely yours,

A handwritten signature in black ink, appearing to be 'S. Johnson', written over the typed name.

Stephen L. Johnson  
Acting Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 15 2012

OFFICE OF  
CIVIL RIGHTS

The Honorable Susan Collins  
Ranking Member  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

I am pleased to send you the enclosed copy of the U.S. Environmental Protection Agency's Fiscal Year 2011 annual report prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174.

This report provides information regarding the number of cases arising under the respective areas of law cited in the No FEAR Act where discrimination was alleged; the amount of money required to be reimbursed by the EPA to the Judgment Fund in connection with such cases; the number of employees disciplined for discrimination, retaliation, harassment or any other infractions of any provision of law referred to under the Act; an analysis of trends and knowledge gained; and accomplishments.

An identical letter has been sent to each entity designated to receive this report as listed in Section 203 of the No FEAR Act. The U.S. Attorney General, the Chair of the U.S. Equal Employment Opportunity Commission, and the Director of the U.S. Office of Personnel Management will also be sent a copy of the report.

If you have any questions, please contact me; or, your staff may call Christina Moody in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely yours,

A handwritten signature in black ink, reading "Rafael DeLeon".  
Rafael DeLeon  
Director

Enclosure

**U.S. ENVIRONMENTAL  
PROTECTION AGENCY**

Fiscal Year 2011

Annual Report to Congress  
Pursuant to the  
Notification and Federal Employee  
Antidiscrimination and Retaliation  
Act of 2002

## TABLE OF CONTENTS

Executive Summary .....	1
Background .....	1
Data .....	2
Analysis of Trends and Practical Knowledge Gained .....	4
Adjustment to Budget .....	5
Actions Planned or Taken to Improve Programs.....	5
APPENDIX 1	
No FEAR 2011 Fiscal Year Totals .....	8
APPENDIX 2	
Anti Harassment Policy Statement .....	19
APPENDIX 3	
2009 EEO Policy Statement.....	21
APPENDIX 4	
2010 EEO Policy Statement.....	23
APPENDIX 5	
2011 EEO Policy Statement.....	24

## **I. EXECUTIVE SUMMARY**

The U.S. Environmental Protection Agency (EPA or Agency) provides its Annual Report to Congress as required by Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174. As required, this report includes information related to the number of cases in Federal court pending or resolved in fiscal year (FY) 2011 and, in connection with those cases, their disposition; reimbursement(s) to the Judgment Fund; and the number of employees disciplined and the nature of the disciplinary action taken.

During FY 2011, there were a total of 15 cases pending before Federal courts. Among these cases, there were 15 claims of violation of Title VII; 2 claims of violations of the Rehabilitation Act; 6 claims of violation of the Age Discrimination in Employment Act; and one claim of violation of the Fair Labor Standards Act. Of the 15 cases noted above, one was settled during the reporting period. The settlement involved a total payment of \$225,000, of which \$216,000 was separately designated for the payment of attorney's fees. The settlement amount will be reimbursed to the Judgment Fund.

Of the remaining 14 cases, two were dismissed with prejudice, one was withdrawn with prejudice, one resulted in summary judgment for the Agency being upheld on appeal, one is currently on appeal of a finding for the Agency, and 9 are proceeding at different stages of pretrial litigation.

There were no disciplinary actions taken in connection with any federal case pending or resolved in FY 2011 brought under applicable provisions of federal anti-discrimination laws and/or Whistleblower Protection laws; or for any conduct that was inconsistent with these laws or for conduct that constituted any prohibited personnel practice.

## **II. BACKGROUND**

On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," or, as it is more commonly known, the No FEAR Act. One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." Public Law 107-174, Summary. In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination." Public Law 107-174, Title I, General Provisions, section 101(1).

Section 203 of the No FEAR Act requires that each Federal agency submit an annual Report to Congress not later than 180 days after the end of each fiscal year. Agencies must report on the number of Federal court cases pending or resolved in each fiscal year and arising under each of the respective areas of law specified in the Act in which discrimination or retaliation was alleged. In connection with those cases, agencies must report the status or disposition of the cases; the amount of money required to be reimbursed to the judgment fund; and the number of employees disciplined. Agencies must also report on any policies implemented related to appropriate disciplinary actions against a Federal employee who discriminated against any individual, or

committed a prohibited personnel practice; any employees disciplined under such a policy for conduct inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws; and an analysis of the data collected with respect to trends, causal analysis, and other information.

The Act imposes additional duties upon Federal agency employers intended to reinvigorate their longstanding obligation to provide a work environment free of discrimination and retaliation. The additional obligations contained in the No FEAR Act can be broken down into five categories:

- A Federal agency must reimburse the Judgment Fund for payments made to employees, former employees, or applicants for Federal employment because of actual or alleged violations of Federal employment discrimination laws, Federal whistleblower protection laws, and retaliation claims arising from the assertion of rights under those laws.
- An agency must provide annual notice to its employees, former employees, and applicants for Federal employment concerning the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws.
- At least every two years, an agency must provide training to its employees, including managers, regarding the rights and remedies available under the employment discrimination and whistleblower protection laws.
- Quarterly an agency must post on its public website summary statistical data pertaining to EEO complaints filed with the agency.

The President delegated responsibility to the Office of Personnel Management (OPM) for issuance of regulations governing implementation of Title II of the No FEAR Act. OPM published final regulations on the reimbursement provisions of the Act on May 10, 2006; final regulations to carry out the notification and training requirements of the Act were published on July 20, 2006; and the final regulations to implement the reporting and best practices provisions of the No FEAR Act on December 28, 2006. The Equal Employment Opportunity Commission (EEOC) published its final regulations to implement the posting requirements of Title III of the No FEAR Act on August 2, 2006. The EPA has prepared this report based on the provisions of the No FEAR Act in accordance with OPM and EEOC's final regulations.

### **III. DATA**

#### **a. Civil Cases**

Section 203(a)(1) of the No FEAR Act requires that agencies include in their Annual Report "the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged." Section 724.302 of OPM's final regulations on reporting and best practices clarifies section 203 (1) of the No FEAR Act stating that agencies report on the "number of cases in Federal Court [district and appellate] pending or resolved...arising under each of the respective provisions of the Federal Antidiscrimination laws and Whistleblower Protection Laws applicable to them...in

which an employee, former Federal employee, or applicant alleged a violation(s) of these laws, separating data by the provision(s) of law involved.”

During FY 2011, there were a total of 15 cases pending before Federal courts. Among these cases, there were 15 claims of violation of Title VII; 2 claims of violations of the Rehabilitation Act; 6 claims of violation of the Age Discrimination in Employment Act; and one claim of violation of the Fair Labor Standards Act.

Of the 15 cases noted above, one was settled during the reporting period. Of the remaining 14 cases, two were dismissed with prejudice, one was withdrawn with prejudice, one resulted in summary judgment for the Agency being upheld on appeal, one is currently on appeal of a finding for the Agency, and 9 are proceeding at different stages of pretrial litigation.

**b. Reimbursement to the Judgment Fund**

During FY 2011, the Agency was required to reimburse the Judgment Fund \$225,000, in connection with the one settled civil case, of which \$216,000 was separately designated for the payment of attorney's fees.

**c. Disciplinary Actions (5 C.F.R. § 724.302 (a)(3) & (5))**

There were no employees disciplined in FY 2011 in connection with any cases described in paragraph (a) above, or for any other conduct that is inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws or for conduct that constitutes prohibited personnel practices.

**d. Final Year-End Data Posted Under Section 301(c)(1)(B)**

The final year-end data posted pursuant to section 301(c)(1)(B) of the No FEAR Act is included in Appendix 1.

The final year-end data indicates that during FY 2011, there were 64 new administrative complaints of discrimination filed by 61 employees or applicants for employment. Within the total inventory of 174 complaints, EPA's Office of Civil Rights (OCR) conducted 94 pre-complaint counselings; 21 investigations; and closed 43 cases including 20 final agency decisions, 11 final agency orders, 6 settlements, 4 dismissals and 2 withdrawals. There were no findings of discrimination in FY 2011.

FY 2011 complaint totals can be found in their entirety at Appendix 1 of this report.

**e. Policy Description on Disciplinary Actions (5 C.F.R. § 724.302(a)(6))**

In FY 2009, EPA Administrator Lisa P. Jackson signed a new Agency EEO policy that set forth her vision for an effective EEO program and a workplace free of discrimination, harassment, and reprisal. This Policy can be found in Appendix 3. During FY 2010, she reaffirmed her



commitment to an effective EEO program in a 2010 EEO Policy. This Policy can be found in Appendix 4. The 2010 EPA EEO Policy can be found at Appendix 5.

In the Agency's 2010 NoFEAR Report, we discussed on-going efforts to implement an Anti-Harassment policy. On July 13, 2011, we accomplished this goal when Administrator Jackson signed and the official Agency Anti-Harassment policy, which can be found in Appendix 2 of this report. For the purposes of this policy, unlawful harassment is defined as any unwelcome verbal or physical conduct based on race; color; sex, including pregnancy and gender identity/expression; national origin; religion; age. The Administrator's policy is precedent setting by its inclusion of bases beyond those covered under Title VII, specifically the bases of gender identity and gender expression. This policy is exemplary of the Agency's rededicated effort to address and alleviate all manner of discrimination, in all its forms, in the workplace.

All EPA supervisors and management officials are responsible for taking appropriate corrective actions for which they have been delegated authority and for recommending to higher level officials disciplinary action considered appropriate in other cases. EPA's policies and procedures for taking disciplinary action are contained in EPA Order 3110.6B, *Adverse Actions*, EPA Order 3120.1B, *Conduct and Discipline*, EPA Order 3120.2, *Conduct and Discipline Senior Executive Service* and in the applicable collective bargaining agreements. Actions in response to findings of discrimination may range from informal corrective actions such as a written warning to more formal disciplinary actions such as a suspension without pay or removal.

Additionally, OCR's standard operating process for the redress of allegations of discrimination provides for a prompt, fair, and impartial review and adjudication of any allegation of discrimination, further demonstrating the Agency's commitment to equal employment opportunity principles and practices in all of our management decisions and personnel practices.

**f. No FEAR Act Training Plans (5 C.F.R. § 724.302 (a)(9))**

In FY 2011, OCR began a revamp of its entire web presence, to include a redesign of the NoFEAR Act online training. The redesigned training, planned for roll out beginning in April 2012, will be more user friendly, interactive, and provide a more meaningful learning experience. The Director of OCR has convened a committee of senior Diversity managers to supervise the training redesign and roll out with the intent to surpass the Agency's 2010 NoFEAR training completion rate of 95%.

**IV. ANALYSIS OF TRENDS, CAUSAL ANALYSIS AND PRACTICAL KNOWLEDGE GAINED THROUGH EXPERIENCE (5 C.F.R. § 724.302 (a)(7))**

At the conclusion of FY 2011, the Agency saw a 12% decrease in number of new complaints filed and a 5% decrease in the number of complainants compared to FY 2010. The bases of alleged discrimination most often raised were: (1) retaliation; (2) sex; and (3) disability. Additionally, EPA saw an overall 40% decrease in the number of complaints filed on the basis of race and a 37% decrease in the number of complaints filed on the basis of age between FY 2010 and FY 2011.

The 64 EEO complaints filed at EPA in FY 2011 contained 35 allegations of retaliation, 28 allegations of sex discrimination, and 24 allegations of age discrimination. The FY 2011 EEO complaint activity at EPA showed a decrease in almost every basis alleged as compared to FY 2010. The only bases alleged more frequently in FY 2011 as compared to FY 2010 were complaints alleging discrimination based on disability discrimination and complaints alleging Equal Pay Act violation. Overall, the data does not show any significant increase in complaints filed on these or any bases, when considering the aggregate size of the workforce.

EPA completed investigations for complaints pending during FY 2011 with an average processing time of 239 days, down from 258 days in FY 2010. EPA's average processing time for all complaint closures increased from 518 days in FY 2010, to 697 days in FY 2011, above the Government-wide average of 404 days, in FY 2010. The Agency found that, on average, complaints where a hearing was requested took 945 days to reach closure. Complaints where settlement was deemed appropriate took an average of 409 days to reach closure and complaints where a Final Agency Decision (FAD) was issued took, on average, 672 days to reach closure. The increase in the number of days can be attributed to a number of factors. FY 2011 was characterized by significant change and transition in the Office of Civil Rights, Employment Complaints Resolution Staff (ECRS). The ECRS lost its Assistant Director and its most senior specialist. The staff was without an Assistant Director for the entire year.

Nevertheless, OCR focused heavily on system improvements during FY 2011. During the reporting period, we initiated an Interagency Agreement (IAG) with the United States Postal Service (USPS). Also during the reporting period, we procured and implemented the government-wide standard complaint tracking system, iComplaints. We have begun transferring all of the Agency investigative functions to USPS, in order to streamline our investigative activities and ultimately conform to regulatory timeframes. We anticipate that these two logistical improvements will collaboratively enhance the productivity and efficiency of the Agency EEO program. While we are aware that our processing times went up during FY 2011, we are confident that we will see a marked decrease in these numbers during FY 2012.

#### **V. ADJUSTMENTS TO BUDGET (5 C.F.R. § 724.302(a)(2)(ii))**

During FY 2011, the Agency was required to reimburse the Judgment Fund \$225,000 in relation to the settlement of a civil case.

#### **VI. ACTIONS PLANNED OR TAKEN TO IMPROVE COMPLAINT OR CIVIL RIGHTS PROGRAMS (5 C.F.R. § 724.302 (a)(7)(iv))**

In an effort to improve our civil rights programs, EPA hired an independent consulting firm during FY 2010 to conduct a comprehensive review and program evaluation to determine how effectively OCR is meeting its mission and regulatory mandates. This study was complete in March 2011. Administrator Jackson convened a Deputies Council, consisting of the Agencies most senior management officials, to review all of the recommendations resulting from that study. During FY 2011, OCR took steps to implement a number of the improvements suggested by the Deputies Council including standardizing templates, developing standard operating

procedures, changing investigation contractors, procuring a new tracking system, hiring new staff and managers and improving accountability for processing investigations and FADs.

In FY 2011, OCR's ECRS attended quarterly technical training working cooperatively with EPA's Office of General Counsel, related to writing acceptance and dismissal letters, analyzing hostile work environment claims and conducting thorough investigations.

OCR also continues to post all No FEAR statistics on the OCR website on a quarterly basis. In addition, have members of the ECRS make presentations during the monthly new hire orientations to ensure that all new employees are notified of the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws.

### **ACCOMPLISHMENTS UPDATE**

The EPA has worked towards meeting the goals of this important legislation as indicated in the actions highlighted below.

#### **1) iComplaints**

In FY 2011, OCR procured and implemented a new EEO complaint tracking system, iComplaints. With its industry-leading technical and functional superiority, this web-based application delivers a comprehensive range of capabilities for inputting, processing, tracking, managing, and reporting on complaint cases. iComplaints includes a number of critical features for tracking and managing EEO complaints and cases. Its robust set of business rules ensures compliance with EEOC MD-110, EEOC reporting requirements, and 29 CFR 1614.

#### **2) Interagency Agreement with the U.S. Postal Service**

During the reporting period, OCR implemented an Interagency Agreement with the United States Postal Service (USPS) for EEO investigation and FAD preparation services. In FY 2011, OCR began the process of eliminating investigative contractors based on detailed assessments of overall past performance. The Agency investigative caseload from the released contractors was then transitioned to USPS. As the only EEO Shared Service Center in the federal sector, the USPS is uniquely qualified to offer a variety of professional EEO complaint processing services. Ranked within the top three in all EEO processing categories within the Federal sector, we are confident that this new partnership will significantly improve the quality and timeliness of EEO investigations.

#### **3) Policy Development**

**Anti Harassment Policy-** During FY 2011, the Agency implemented a new anti harassment policy to prevent harassment, either sexual or non-sexual, in the workplace and to correct harassing conduct before it becomes severe or pervasive.

**2011 EEO Policy-** The Administrator reaffirmed her commitment to creating a diverse workplace free from discrimination in her 2011 EEO policy. The policy clearly expressed that the EPA will not tolerate discrimination based on race; color; national origin; religion; age; disability; sex, including pregnancy and gender identity/expression; protected genetic information; sexual orientation; status as a parent or retaliation based on prior protected EEO activity.

**4) Diversity, Special Emphasis, and Special Observance Programs**

In an effort to reduce complaints and reinforce a workplace culture free of discrimination, EPA has continued to maintain strong programs in FY 2011 for the employment, advancement, and retention of a diverse Federal workforce. These programs included initiatives to: strengthen partnerships with academic institutions and special emphasis community groups; outreach and recruitment events to provide potential civil service recruits with information on locating and applying for EPA jobs; and encouraging the use of various recruitment flexibilities to tap into diverse talent pools. EPA also regularly conducted special observance programs at headquarters and regional offices designed to provide information and foster appreciation for individuals of different cultures and experiences.

EPA completed and submitted its FY 2011 Management Directive 715 report to the EEOC in a timely manner, and the agency is working aggressively to continue to build and sustain a Model EEO Program.

## APPENDIX 1

### Equal Employment Opportunity Data Posted Pursuant to Title III of the No FEAR Act

Data as of September 31 - End of Fiscal Year 2011

Complaint Activity	Comparative Data					2011
	Previous Fiscal Year Data					
	2006	2007	2008	2009	2010	
Number of Complaints Filed	77	65	81	78	73	64
Number of Complainants	60	58	73	71	64	61
Repeat Filers	12	6	8	8	9	3

Complaints by Basis	Comparative Data					2011
	Previous Fiscal Year Data					
	2006	2007	2008	2009	2010	
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>						
Race	35	34	41	33	40	24
Color	4	9	14	9	6	1
Religion	0	2	2	1	5	2
Reprisal	0	37	42	35	47	35
Sex	28	21	30	37	29	28
PDA	0	0	0	0	0	0
National Origin	14	8	10	6	15	10
Equal Pay Act	0	1	0	0	0	2
Age	30	28	29	38	30	19
Disability	24	19	16	25	22	24
Genetics	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0

# Complaints by Issue

## Comparative Data

### Previous Fiscal Year Data

*Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.*

	2006	2007	2008	2009	2010	2011
Appointment/Hire	1	0	0	0	2	0
Assignment of Duties	7	5	13	7	17	9
Awards	6	1	4	2	7	1
Conversion to Full-time	0	0	1	0	0	0

### Disciplinary Action

Demotion	1	0	1	0	0	0
Reprimand	3	3	1	3	2	1
Suspension	3	3	0	2	2	3
Removal	2	0	0	1	0	1
Other	2	0	0	0	4	1
Duty Hours	0	0	0	0	1	3
Evaluation Appraisal	15	10	17	9	15	6
Examination/Test	0	0	0	0	0	1

### Harassment

Non-Sexual	39	30	31	36	35	30
Sexual	1	0	1	0	1	1
Medical Examination	1	0	0	0	0	0
Pay (Including Overtime)	3	4	3	2	5	2
Promotion/Non-Selection	25	22	28	24	24	15

**Reassignment**

Denied	6	3	1	0	4	2
Directed	2	2	4	2	7	1
Reasonable Accommodation	12	7	3	6	1	5
Reinstatement	0	0	0	0	0	0
Retirement	1	0	0	1	0	0
Termination	1	4	4	7	4	7
Terms/Conditions of Employment	11	12	10	8	16	6
Time and Attendance	12	8	13	7	7	2
Training	6	2	8	7	7	2
Other	0	1	0	0	0	0

**Comparative Data**

Processing Time	Previous Fiscal Year Data					2011
	2006	2007	2008	2009	2010	
Complaints pending during fiscal year						
Average number of days in investigation	206.38	240.04	228.42	218.22	223.80	248.14
Average number of days in final action	240.77	214.09	269.59	168.06	157.83	313.57
Complaint pending during fiscal year where hearing was requested						
Average number of days in investigation	227.85	254.97	232.16	213.42	200.49	258.00

Average number of days in final action	89.86	147.28	123.12	112.18	17.36	95.00
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Complaint pending during fiscal year where hearing was not requested

Average number of days in investigation	178.04	218.40	221.95	224.76	240.38	203.25
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Average number of days in final action	354.97	288.62	363.32	196.00	304.89	436.60
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Complaints Dismissed by Agency	Comparative Data					
	Previous Fiscal Year Data					
	2006	2007	2008	2009	2010	2011
Total Complaints Dismissed by Agency	23	17	12	12	13	4
Average days pending prior to dismissal	246	238	394	130	182	330

Complaints Withdrawn by Complainants

Total Complaints Withdrawn by Complainants	4	9	8	3	2	2
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Total Final Agency Actions Finding Discrimination	Comparative Data											
	Previous Fiscal Year Data											
	2006		2007		2008		2009		2010		2011	
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	0		0		0		0		0		0	
Without Hearing	0	0	0	0	0	0	0	0	0	0	0	0
With Hearing	0	0	0	0	0	0	0	0	0	0	0	0

Findings of Discrimination Rendered by Basis

Comparative Data	
Previous Fiscal Year Data	2011



**Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.**

	2006		2007		2008		2009		2010			
	#	%	#	%	#	%	#	%	#	%	#	%
<b>Total Number Findings</b>	0		0		0		0		0		0	
Race	0	0	0	0	0	0	0	0	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0

<b>Findings After Hearing</b>	0		0		0		0		0		0	
Race	0	0	0	0	0	0	0	0	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0

Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
<b>Findings Without Hearing</b>	0		0		0		0		0		0	
Race	0	0	0	0	0	0	0	0	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0
Sex	0	0	0	0	0	0	0	0	0	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	0	0	0	0	0	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0

#### Comparative Data

Findings of Discrimination Rendered by Issue	Previous Fiscal Year Data												2011
	2006		2007		2008		2009		2010				
	#	%	#	%	#	%	#	%	#	%	#	%	
Total Number Findings	0		0		0		0		0		0		
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0	
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0	
Awards	0	0	0	0	0	0	0	0	0	0	0	0	

Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0

Other - User Defined	0	0	0	0	0	0	0	0	0	0	0	0
<b>Findings After Hearing</b>	0		0		0	0		0		0		
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0
<b>Disciplinary Action</b>												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
<b>Harassment</b>												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
<b>Reassignment</b>												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	0	0	0

Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other - User Defined	0	0	0	0	0	0	0	0	0	0	0	0
<b>Findings Without Hearing</b>	0		0		0		0		0		0	
Appointment/Hire	0	0	0	0	0	0	0	0	0	0	0	0
Assignment of Duties	0	0	0	0	0	0	0	0	0	0	0	0
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0
<b>Disciplinary Action</b>												
Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	0	0	0	0	0	0
Suspension	0	0	0	0	0	0	0	0	0	0	0	0
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	0	0	0	0	0	0	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
<b>Harassment</b>												
Non-Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Sexual	0	0	0	0	0	0	0	0	0	0	0	0
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0

Pay (Including Overtime)	0	0	0	0	0	0	0	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0	0	0	0	0	0	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	0	0	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	0	0	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other - User Defined	0	0	0	0	0	0	0	0	0	0	0	0

#### Comparative Data

Pending Complaints Filed in Previous Fiscal Years by Status	Previous Fiscal Year Data					2011
	2006	2007	2008	2009	2010	
Total complaints from previous Fiscal Years	0	20	23	55	55	66
Total Complainants	0	19	21	49	49	52
<b>Number complaints pending</b>						
Investigation	0	1	1	2	0	5
ROI issued, pending Complainant's action	0	0	0	0	0	2
Hearing	0	0	1	4	1	7
Final Agency Action	10	4	17	24	16	13
Appeal with EEOC Office of Federal Operations	0	0	0	0	0	0

Complaint Investigations	Comparative Data					2011
	Previous Fiscal Year Data					
	2006	2007	2008	2009	2010	
Pending Complaints Where Investigations Exceed Required Time Frames	5	19	14	18	38	40

## **APPENDIX 2**

### **Anti-Harassment Policy**

#### **MEMORANDUM**

**FROM:** Administrator Lisa P. Jackson

**TO:** All EPA Employees

As a matter of policy, harassment of any kind will not be tolerated at the U.S. Environmental Protection Agency. When harassment is directed at an individual because of a lawfully protected basis and is sufficiently severe or pervasive that it creates a hostile work environment or takes the form of a tangible employment action, it is unlawful. It is EPA policy to ensure that appropriate measures are implemented to prevent harassment, either sexual or nonsexual, in the workplace and to correct harassing conduct before it becomes severe or pervasive. EPA policy also strictly prohibits any retaliation against an employee who reports a concern about workplace harassment or assists in any inquiry about such a report.

For the purposes of this policy, unlawful harassment is defined as any unwelcome verbal or physical conduct based on race; color; sex, including pregnancy and gender identity/expression; national origin; religion; age; prior protected EEO activity; protected genetic information; sexual orientation or status as a parent when:

- a) the behavior can reasonably be considered to adversely affect the work environment; or
- b) an employment decision affecting the employee is based upon the employee's acceptance or rejection of such conduct.

Sexual harassment can be either a form of harassment based on a person's sex that need not involve conduct of a sexual nature or harassment involving any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature when:

- a. submission to such conduct is made explicitly or implicitly a term or condition of an employee's job, pay or career;
- b. submission to or rejection of such conduct by an employee is used as a basis for career or employment decisions affecting that employee; or
- c. such conduct has the purpose or effect of unreasonably interfering with an employee's performance or creates an intimidating, hostile or offensive environment.

Sexual harassment need not involve members of the opposite sex and can be perpetrated by and against members of either sex.



Examples of workplace harassment include:

- Oral or written communications that contain offensive name calling, jokes, slurs, negative stereotyping, hostility or threats. This includes comments or jokes that are distasteful or targeted at individuals or members of the lawfully protected bases set forth above.
- Nonverbal conduct, such as staring, leering and giving inappropriate gifts.
- Physical conduct, such as assault or unwanted touching.
- Visual images, such as derogatory or offensive pictures, cartoons or drawings. Such prohibited images include those in hard copy or electronic form.

The EPA does not permit harassment by or against anyone in the workplace. This includes any employee, applicant for EPA employment, grantee, contractor, Senior Environmental Employment enrollee or Federal Advisory Committee Act member. Workplace harassment should be reported immediately by the affected person to a first-line supervisor, a higher-level supervisor or manager in her or his chain of command, the Office of Inspector General or Labor and Employee Relations staff, as appropriate. Supervisors, in consultation with their human resources or legal offices, must conduct prompt, thorough and impartial inquiries. Please consult the anti-harassment procedures accompanying this policy.

If necessary and to the extent possible, measures must be taken to safeguard the anonymity of employees who file complaints. If management, in consultation with legal counsel, determines that harassment has occurred, it must be corrected as soon as possible. Harassing conduct by EPA employees need not rise to the level of unlawful harassment for it to constitute misconduct subject to corrective or disciplinary action.

In addition, EPA employees or applicants for employment may also use the complaint process established by the Equal Employment Opportunity Commission to file a complaint of harassment based on race, color, sex, religion, national origin, age, disability, prior protected EEO activity and protected genetic information for individual redress. To invoke that process, EPA employees and applicants must contact an EEO counselor within 45 days of an alleged incident of harassment. Reporting harassment to a supervisor in accordance with the previous paragraph does not satisfy this requirement and does not invoke the EEOC's process. EPA employees or applicants for employment may also report harassment based on sexual orientation and status as a parent to the EPA Office of Civil Rights.

Should you have any questions or need additional information about this policy, please contact the EPA Office of Human Resources at (202) 564-4600 or the EPA Office of Civil Rights at (202) 564-7272.

## **APPENDIX 3**

### ***2009 Equal Employment Opportunity (EEO) Policy Statement***

#### ***Memorandum***

**FROM:** Administrator Lisa P. Jackson

**TO:** All EPA Employees

I believe that there is no higher calling than public service, and that there is no more important work in public service than the pursuit of civil equity. Our credibility and efficacy in the area of EEO is inextricably linked to our integrity and impartiality. In a sense, our capacity to protect human health and the natural environment depends on the protection of the workforce and the vindication of workforce rights, and we are duty bound to protect the rights of all employees, without bias or favoritism. To these ends, EPA must always strive to foster a work environment where the principles of EEO are willingly embraced and diversity is valued and understood. Maintaining a world class public service workforce requires strategic efforts to tap into the intellectual capital of our global economy. The 2000 Census shows major shifts in the demographic profile of the population we serve and the labor force from which we recruit. It is predicted that within the next 30 years, no single racial or ethnic group will comprise the majority of the nation's population. Clearly, changes associated with our increasingly pluralistic society bring concurrent opportunities and challenges.

#### **Guiding Principle**

EPA will be fully committed to the principles of EEO, equity, and diversity in the workplace and adhere to the policy of ensuring equal employment opportunity, prohibiting unlawful discrimination, retaliation and harassment in all its forms, and promoting diversity and inclusiveness.

#### **Definition(s)**

Equal Employment Opportunity (EEO) refers to the set of laws and policies that mandate all individuals' rights to equal opportunity in the workplace. The unequivocal protection of these fundamental civil rights in the workplace is the cornerstone of our American democracy and the foundation upon which diversity can thrive.

Diversity refers to the human qualities that are different from our own and those of groups to which we belong; but are manifested in other individuals and groups. Dimensions of diversity include but are not limited to: age, ethnicity, gender, physical abilities/qualities, race, sexual orientation, educational background, geographic location, socioeconomic status, marital status, military experience, religious beliefs, political beliefs and ideologies.

Diversity management, in contrast, is a proactive and appropriate response to the changing profile of our world. It is imperative that we recognize that in order to be relevant in the global economy of the 21st century, the Agency must recruit, develop, and retain a world class

workforce that reflects the many dimensions of the society it serves. Based on the empirical correlation between workforce diversity and high performing organizations, a strong business case can be made for diversity.

### **Affirmation**

I wish to affirm that no employee will be denied equal opportunity because of race, color, religion, sex, national origin, age, disability, status as a parent, sexual orientation, marital status, protected genetic status or prior EEO activity (reprisal). Individually, and collectively as an Agency, we must:

- ensure that all programs to recruit, hire, train, develop, promote, reward, and discipline employees are conducted in a fair and consistent manner on the basis of merit. Each employee will be regarded fairly and treated with dignity and respect.
- maintain a work environment free from unlawful discrimination, reprisal and harassment. To do otherwise is simply not an option. It is totally unacceptable and will not be tolerated. Managers and supervisors will continually be held accountable for their responsibility to identify and correct discriminatory policies, practices and behaviors and for taking prompt and appropriate action to ensure that the work environment is free of unlawful discrimination, reprisal and/or harassment.
- provide reasonable accommodations for qualified applicants and employees with disabilities.
- seek to resolve workplace conflicts in a prompt, impartial, confidential, nondiscriminatory, and constructive manner, and without fear of reprisal. Every employee is encouraged to use the Alternative Dispute Resolution (ADR) process as a valuable tool in resolving workplace disputes and complaints of discrimination; and when appropriate, managers and supervisors shall fully participate in the ADR process.
- educate managers, supervisors, and employees of their rights and responsibilities under Federal law. Equal opportunity is good business and it is the law. I expect all managers, supervisors, and employees to carry out their duties accordingly.

### **Conclusion**

I expect EPA to continue to maintain policies that allow all employees to work in an environment that is free from discrimination, reprisal, and harassment.

It is my vision that EEO and diversity management are separate but symbiotic functions essential to the success of the EPA as a high performing organization. Together, these functions create synergy and transform our organization into one in which the whole is greater than the sum of singular entities. We are strengthened by our diversity, and empowered by our commitment to effective EEO.

## **APPENDIX 4**

### **MEMORANDUM**

**SUBJECT:** 2010 Equal Employment Opportunity Policy Statement

**TO:** All Employees

I am reaffirming my commitment to the principles of equal employment opportunity and diversity in the workplace for the U.S. Environmental Protection Agency's employees and job applicants. The EPA must continue to attract, develop, and retain a highly skilled, diverse work force to meet the demands of our mission to protect human health and the natural environment. The EPA must be fully committed to promoting and maintaining a workplace that ensures equality of opportunity for everyone, regardless of her or his race, color, religion, sex, national origin, age, disability, status as a parent, sexual orientation, protected genetic information, prior EEO activity and marital status.

Our managers and supervisors must lead by example to ensure the workplace is free from discrimination, hostility, intimidation, reprisal and harassment. We all have a role to play, and each of us must be committed to treating one another with dignity, respect and professionalism. I ask you to help me create a work environment that embraces our individual differences and gives everyone full consideration for employment opportunities, including hiring, promotions and training, regardless of his or her protected status.

Our vision of One EPA can be realized only if we respect and honor the differences that every employee brings from her or his background. I am confident that, as we move forward, all of us will work toward protecting and advancing the principles of EEO.

I offer my sincerest thanks to all of you for your dedication to the EPA and for the excellent work you do every day to protect the American people and our environment. None of it would be possible without the diversity of experiences and ideas that each of you brings to our agency.

/s/

Lisa P. Jackson

Administrator

## **APPENDIX 5**

### **2011 Equal Employment Opportunity (EEO) Policy Statement**

#### **Memorandum**

**FROM:** Administrator Lisa P. Jackson

**TO:** All EPA Employees

I am proud to reaffirm the U.S. Environmental Protection Agency's commitment to equal employment opportunity and diversity in the workplace. Given the many challenging tasks that lie ahead of the EPA, each of us must embrace her or his personal responsibility to maintain a professional and respectful work environment.

The EPA will not tolerate discrimination based on race; color; national origin; religion; age; disability; sex, including pregnancy and gender identity/expression; protected genetic information; sexual orientation; status as a parent or retaliation based on prior protected EEO activity. The EPA also will not tolerate any type of harassment, either sexual or nonsexual, of any employee or applicant for employment. Employment decisions, including those related to hiring, training or awards, must be made in accordance with the merit system principles contained in 5 U.S.C. § 2301.

We have a world-class work force. As Administrator, I expect our management team to provide first class leadership in support of EEO and diversity. As part of their leadership responsibilities, managers must act promptly both to prevent and to address any discriminatory conduct in the workplace.

I also expect all EPA managers and employees to treat each other and the public with dignity and respect, to report discriminatory conduct and to prevent all types of discrimination, including harassment of any kind. I urge all EPA managers and employees to cultivate a positive, inclusive work environment that is free from unlawful discrimination.

Any employee, manager or applicant for employment who believes he or she has been subjected to discrimination may exercise her or his rights and seek redress by contacting the EPA's Office of Civil Rights or an EEO officer at the regional or laboratory level. Managers are reminded that their participation in agency-approved alternative-dispute-resolution efforts designed to resolve employee EEO complaints is required, absent extraordinary circumstances as determined by the Office of Civil Rights' director or a designee. All EPA managers and employees should also be aware that disciplinary action may be taken against anyone found by the EPA to have engaged in unlawful discrimination.

A professional, productive and efficient work force is essential to the EPA's ability to protect human health and the environment. Unlawful discrimination in the workplace, including retaliation and harassment, undermines achievement of our agency's mission.

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Each of us is privileged to serve the American people, and every day offers a new opportunity to contribute our very best efforts. Working together as One EPA, we can ensure a positive, respectful work environment that strengthens our vibrant, diverse work force.

United States Senate  
WASHINGTON, DC 20510

July 16, 2012

The Honorable Lisa Jackson  
Administrator  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator Jackson:

We understand that National Environmental Justice Advisory Council has urged EPA to promulgate new rules or guidance to expand the general duty clause of Section 112(r) of the Clean Air Act (CAA 112(r)), which addresses accidental release prevention, to regulate chemical facility security against terrorist attacks. As members of the Senate Committee on Environment and Public Works (EPW), which has jurisdiction over the Clean Air Act (CAA), and the Senate Committee on Homeland Security and Governmental Affairs (HSGAC), which has jurisdiction over the Chemical Facility Anti-Terrorism Standards program (CFATS)<sup>1</sup>, we strongly oppose the use of these provisions to address site security for chemical and other facilities from terrorist attacks.

The requests you have received ask that EPA "use its authority under the 1990 Clean Air Act, Section 112(r), to reduce or eliminate these catastrophic risks, where feasible, by issuing new rules and guidance to fully implement the General Duty Clause." The requests cite a 2002 EPA proposal, drafted following the terrorist attacks of September 11, 2001, considering the use of the general duty clause to make chemical facilities "inherently safer by reducing quantities of hazardous chemicals handled or stored, substituting less hazardous chemical for extremely hazardous ones, or otherwise modifying the design of processes to reduce or eliminate chemical hazards." Given that laws have since been enacted to address site security, we do not believe this is a necessary or prudent action by your Agency.

As you know, in 2002, no federal program existed to regulate security of facilities with chemicals present onsite. At that time, EPA asserted that the CAA *could* be interpreted to provide authority to address site security but did not try to use the provisions because EPA was "concerned that such an interpretation would pose significant litigation risk and has concluded that chemical facility security would be more effectively addressed by passage of specific legislation."<sup>2</sup> In a 2003 report, the Government Accountability Office (GAO) agreed that such an interpretation of EPA's authority under CAA could be open to legal challenges.<sup>3</sup>

This GAO report went on to list several limitations on using the CAA 112(r) general duty clause authority for chemical facilities, including that "the General Duty Clause provides that chemical facility owners and operators have a 'general duty in the same manner and to the same extent' as OSHA's general duty clause. However, the Department of Labor informed us that it does not believe OSHA's general duty clause provides it with authority to address the threat of terrorism. . . . Justice expressed concerns that the Clean Air Act does not provide sufficient protection against dissemination of sensitive information that could be used by terrorists,"<sup>4</sup> a position similarly articulated by the Clinton Administration's Justice Department on April 18, 2000.<sup>5</sup> GAO also agreed with EPA's conclusion that specific legislation was needed to address chemical facility security, stating: "Our work demonstrates the need to move to a

comprehensive national strategy that does more to assure the Congress and the public that chemical facilities have taken appropriate security measures. By swiftly implementing a comprehensive approach to reduce the risk of a terrorist-caused release, policy makers can better protect American communities.”<sup>6</sup>

In that same report, GAO made eight recommendations on actions to better ensure chemical facility safety. All of their recommendations have been implemented.<sup>7</sup> The final recommendation was completed in 2006 when Congress granted the Department of Homeland Security (DHS) authority to require high risk chemical facilities to complete vulnerability assessments, develop site security plans, and implement protective measures necessary to meet DHS-defined performance standards. DHS released the CFATS interim final rule in 2007. Under the CFATS program, thousands of chemical facilities have made changes to their business operations and chemical holdings to reduce risk. Out of more than 7,000 high risk chemical facilities identified initially by DHS, approximately 1,600 facilities have completely removed their chemicals of interest, and more than 700 other facilities have reduced their holdings of chemicals of interest to levels resulting in the facilities no longer being considered high-risk. Facilities continue to make progress in this area. These actions were the result of choices made by facilities after the establishment of the CFATS regulation.

Additionally, Congress enacted the Public Health Security and Bioterrorism Preparedness and Response Act of 2002<sup>8</sup> which, under Title IV, requires community water systems serving more than 3,300 people to conduct vulnerability assessments to terrorist attacks, prepare emergency response plans that incorporate the results of the vulnerability assessments, certify to EPA that the vulnerability assessments and emergency response plans have been completed, and provide a copy of the assessment to EPA. To improve security in our nation’s ports, the Maritime Transportation Security Act of 2002<sup>9</sup> directed the Secretary of DHS to identify vessels and port facilities that pose a high risk of being involved in a transportation security incident to conduct a vulnerability assessment of these facilities and vessels and develop security plans.

Despite the current security regulatory programs for facilities with chemicals that are being implemented by the Federal government, you have received recommendations to further regulate these same facilities under the CAA. These requests for new EPA action argue for using the CAA 112(r) general duty clause authority to mandate the use of “inherently safer technologies” or IST. Both HSGAC and EPW have heard from multiple security and chemical experts that IST should *not* be federally mandated, including at a June 21, 2006, EPW hearing focused entirely on the effectiveness of IST. At a March 2010 hearing on Chemical Security, HSGAC received testimony summarizing the major issue with mandating IST to reduce terrorism hazards. Not only is IST, from a legal standpoint, not well-defined – requiring subjective enforcement by EPA – but also “[IST] is a chemical safety process exercise premised on the belief that, if a particular chemical process hazard can be reduced, the overall risk associated with that process will also be reduced . . . it is an elegant concept, but the reality is almost never that simple. A reduction in hazard will reduce overall risk if, and only if, that hazard is not displaced to another time or location, or result in the creation of some new hazard.”<sup>10</sup>

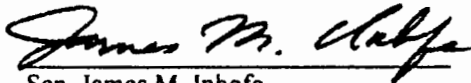
EPA understood this complicated reality, and the 2002 proposal was not the first time EPA rejected the use of CAA 112(r) risk management plans for mandating IST. In 1996, the Clinton Administration’s EPA considered mandating IST under these provisions, but ultimately decided it was unnecessary saying: “PHA [process hazard analysis] teams regularly suggest viable, effective (and inherently safer) alternatives for risk reduction, which may include features such as inventory reduction, material substitution, and process control changes. These changes are made as opportunities arise, without regulation or adoption of completely new and unproven process technologies. . . . EPA does not believe that a requirement that owners or operators conduct searches or analyses of alternative process technologies for new or existing processes will produce significant additional benefits.”<sup>11</sup>



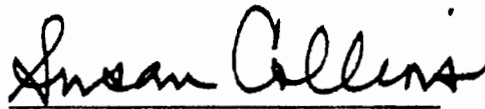
The concept of mandating IST is not as simple as replacing one chemical with another. As the Congressional Research Service reported earlier this year: "A fundamental challenge for inherently safer technologies is how to compare one technology with its potential replacement. It is challenging to unequivocally state that one technology is inherently safer than the other without adequate metrics. Risk factors may exist outside of the comparison framework. Some experts have asserted that the metrics for comparing industrial processes are not yet fully established and need additional research and study."<sup>12</sup> For these reasons among others, mandating IST remains impractical.

The existing regulations under CFATS, Safe Drinking Water Act, and Maritime Transportation Security Act are designed to evaluate vulnerabilities, and provide meaningful opportunity for hazard reductions, without mandating unproven solutions that could introduce additional risk. Promulgation of new EPA regulations or guidance under the general duty clause of CAA 112(r) would be duplicative, confusing, and potentially conflict with these current regulatory systems. The Clean Air Act was not designed to address terrorist activities, and we therefore request that you decline any proposals for new regulations under this authority.

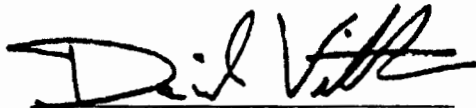
Sincerely,



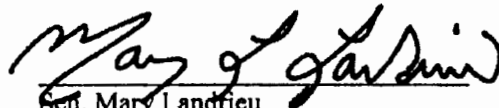
Sen. James M. Inhofe  
Ranking Member  
Senate Committee on Environment and  
Public Works



Sen. Susan M. Collins  
Ranking Member  
Senate Committee on Homeland Security and  
Governmental Affairs



Sen. David Vitter  
Ranking Member  
Subcommittee on Transportation and  
Infrastructure



Sen. Mary Landrieu  
Chairman  
Subcommittee on Homeland Security

Cc: Nancy Sutley, Chair, White House Council on Environmental Quality

<sup>1</sup> The Chemical Facility Anti-Terrorism Standards program was established under P.L. 109-295, Section 550.

<sup>2</sup> GAO-03-439, March 2003, p. 16, available at: <http://gao.gov/products/GAO-03-439>.

<sup>3</sup> Id., p. 16.

<sup>4</sup> Id., p. 18.

<sup>5</sup> U.S. Department of Justice, "Assessment of the Increased Risk of Terrorism or other Criminal Activity Associated with Posting Off-Site Consequence Analysis Information on the Internet," April, 18, 2000.

<sup>6</sup> Id., p. 30.

<sup>7</sup> <http://gao.gov/products/gao-03-439>

<sup>8</sup> P.L. 107-188.

<sup>9</sup> P.L. 107-295.

<sup>10</sup> Testimony of Stephen Poorman, International EHS Manager, FUJIFILM Imaging Colorants Ltd., on behalf of the Society of Chemical Manufacturers and Affiliates before the Senate Committee on Homeland Security and Governmental Affairs on Chemical Security: Assessing Progress and Charting a Path Forward. March 3, 2010.

<sup>11</sup> 61 Fed. Reg. 31699 (June 20, 1996).

<sup>12</sup> R41642 *Chemical Facility Security: Issues and Options for the 112th Congress*, Dana A. Shea, Specialist in Science and Technology Policy, January 13, 2012.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 21 2012

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

The Honorable Susan M. Collins  
Ranking Member  
Senate Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Senator Collins:

Thank you for your letter of July 16, 2012, to the U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson, regarding the use of the Clean Air Act (CAA) General Duty Clause (GDC) to issue new rules and guidance to eliminate the risk of chemical disasters at Risk Management Program (RMP) facilities. We appreciate and share your concern about chemical accidents and preventing their devastating effects on communities.

Under the statutory structure, the GDC imposes a duty for chemical facility owners and operators to identify the hazards present at their facilities, taking the necessary steps to prevent releases and minimize the consequences of releases that do occur. The GDC is set by statute (CAA section 112(r)(1)). The RMP, established by regulation in 40 C.F.R. part 68, focuses on those facilities handling extremely toxic and flammable substances that, if accidentally released, could cause serious harm to the public and the environment.

Strong chemical accident prevention, preparedness and response programs require partnerships with the public and all levels of government. As such, the EPA is focused on the prevention of and the preparation for such chemical disasters arising from natural disasters or technological failure while the Department of Homeland Security (DHS) is focused on acts of terrorism or other security-related causes. Other agencies, such as the Occupational Safety and Health Administration in the Department of Labor, have a role in preventing chemical disasters. We will respect the roles and expertise of each agency in preventing chemical disasters under these different causal scenarios. Accordingly, we are working in cooperation with DHS and the other agencies to promote prevention and response programs, as we will look for opportunities to reduce the likelihood of chemical disasters.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Carolyn Levine, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-1859.

Sincerely,

A handwritten signature in black ink that reads "Mathy Stanislaus". The signature is written in a cursive, flowing style.

Mathy Stanislaus  
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AL-10-001-8134

OCT 29 2010

THE ADMINISTRATOR

The Honorable Susan Collins  
Ranking Member  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

I am pleased to support the charter renewal of the Clean Air Act Advisory Committee (CAAAC) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The CAAAC is in the public interest and supports the U.S. Environmental Protection Agency (EPA) in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The Committee will be in effect for two years from the date it is filed with Congress. After the two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App.2 § 14).

If you have any questions or comments, please contact me or your staff may contact Lynda Beck in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3637.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over a horizontal line.

Lisa P. Jackson

Enclosure

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# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

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## CLEAN AIR ACT ADVISORY COMMITTEE

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1. **Committee's Official Designation (Title):**

Clean Air Act Advisory Committee

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2. **Authority:**

This charter renews the Clean Air Act Advisory Committee (CAAAC) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2. CAAAC is in the public interest and supports the Environmental Protection Agency (EPA) in performing its duties and responsibilities under the Clean Air Act Amendments of 1990.

3. **Objectives and Scope of Activities:**

CAAAC will provide advice, information and recommendations on policy and technical issues associated with implementation of the Clean Air Act Amendments of 1990 (the Act). These issues include the development, implementation, and enforcement of the new and expanded regulatory and market-based programs required by the Act, with the exception of the provisions of the Act that address acid rain. The programs falling under the purview of the committee include those for meeting National Ambient Air Quality Standards, reducing emissions from vehicles and vehicle fuels, reducing greenhouse gas emissions, reducing air toxic emissions, issuing operating permits and collecting fees, and carrying out new and expanded compliance authorities. CAAAC may advise on issues that cut across several program areas.

The major objectives are to provide advice and recommendations on:

- a. Approaches for new and expanded programs, including those using innovative technologies and policy mechanisms to achieve environmental improvements.
- b. The potential health, environmental, and economic effects of Clean Air Act programs on the public, the regulated community, State and local governments, and other Federal agencies.
- c. The policy and technical contents of proposed major EPA rulemaking and guidance required by the Act in order to help effectively incorporate appropriate outside advice and information.
- d. The integration of existing policies, regulations, standards, guidelines, and procedures into programs for implementing requirements of the Act.

4. **Description of Committees Duties:**

The duties of CAAAC are solely to provide advice to EPA.

5. **Official(s) to Whom the Committee Reports:**

The Committee will submit advice and recommendations and report to the EPA Administrator, through the Office of Air and Radiation.

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6. **Agency Responsible for Providing the Necessary Support:**

EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Office of Air and Radiation.

7. **Estimated Annual Operating Costs and Work Years:**

The estimated annual operating cost of CAAAC is \$1,150,000 which includes 4.2 person-years of support.

8. **Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the DFO. The DFO or a designee will be present at all of the advisory committee's and subcommittee meetings. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

9. **Estimated Number and Frequency of Meetings:**

The committee expects to meet approximately three (3) times a year. Meetings may occur approximately once every four (4) months or as needed and approved by the Designated Federal Officer (DFO). EPA may pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, CAAAC will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of Section 552(b) of Title 5, United States Code. Interested persons may attend meetings, appear before the committee as time permits, and file comments with the CAAAC.

**10. Duration and Termination:**

CAAAC will be examined annually and will exist until the EPA determines the committee is no longer needed. This charter will be in effect for two years from the date it is filed with Congress. After the initial two-year period, the charter may be renewed as authorized in accordance with Section 14 of FACA.

**11. Member Composition:**

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CAAAC will be composed of approximately forty (40) members. Members, with the exception of members who are Federal officials (Regular Government Employees), will serve as representatives of non-federal interests. In selecting members, EPA will consider candidates from business and industry, academic institutions, State, local and tribal governments, EPA officials, unions, public interest groups, environmental organizations and service groups.

**12. Subgroups:**

EPA, or CAAAC with EPA's approval, may form CAAAC subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the CAAAC for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the Agency.

**13. Recordkeeping:**

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with NARA General Records Schedule 26, Section 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

September 29, 2010  
Agency Approval Date

October 6, 2010  
GSA Consultation Date

OCT 29 2010

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Date Filed with Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OCT 22 2010

AL-10-001-7719

THE ADMINISTRATOR

The Honorable Susan Collins  
Ranking Member  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

I am pleased to support the charter renewal of the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The FIFRA SAP is in the public interest and supports the U.S. Environmental Protection Agency (EPA) in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The Committee will be in effect for two years from the date it is filed with Congress. After the two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App.2 § 14).

If you have any questions or comments, please contact me or your staff may contact Lynda Beck in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3637.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", is written over a horizontal line.

Lisa P. Jackson

Enclosure

# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

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## FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

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### 1. Committee's Official Designation (Title):

Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel

### 2. Authority:

This charter renews the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2. FIFRA SAP is in the public interest and supports EPA in performing its duties and responsibilities. The original Panel was created on November 28, 1975, pursuant to Section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended by Public Law 94-140, Public Law 95-396, and Public Law 96-539. In accordance with this statute, the Panel terminated on September 30, 1981. It was reestablished by the Administrator pursuant to the Federal Advisory Committee Act (FACA) and Section 21(b) of FIFRA on April 25, 1983, and then reauthorized as a statutory committee by amendment to the FIFRA dated December 2, 1983 (Public Law 98-201). Under FIFRA (Public Law 98-201), the statutory Panel terminated on September 30, 1987. It was administratively reestablished on October 1, 1987 by the Administrator pursuant to FACA until reauthorized as a statutory Panel by amendment to the FIFRA, dated October 25, 1988 (Public Law 100-532). Section 104 of the Food Quality Protection Act of 1996 (Public Law 104-170) establishes a Science Review Board consisting of sixty scientists who shall be available to the Scientific Advisory Panel on an ad hoc basis to assist in reviews conducted by the Panel.

### 3. Objectives and Scope of Activities:

FIFRA SAP will provide comments, evaluations, and recommendations on pesticides and pesticide-related issues as to the impact on health and the environment of regulatory actions.

The major objectives are to provide comments, evaluations, and recommendations on:

- a. The impact on health and the environment of matters arising under Sections 6(b), 6(c) and 25(a) of FIFRA.
- b. Analyses, reports and operating guidelines to improve the effectiveness and quality of scientific analyses made by EPA.
- c. Guidelines to improve the effectiveness and quality of scientific testing and of data submitted to EPA.
- d. Methods to ensure that pesticides do not cause "unreasonable adverse effects on the environment," as defined in Section 2 (bb) of FIFRA.



e. Major scientific studies (whether conducted by EPA or other parties) supporting actions under Sections 6(b), 6(c), and 25(a) of FIFRA.

f. Major pesticide and pesticide-related scientific studies and issues in the form of a peer review.

4. **Description of Committees Duties:**

The duties of FIFRA SAP are to provide advice to EPA.

5. **Official(s) to Whom the Committee Reports:**

The FIFRA SAP will report to the EPA Administrator through EPA's Assistant Administrator for the Office of Chemical Safety and Pollution Prevention (OCSPP).

6. **Agency Responsible for Providing the Necessary Support:**

EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Office of Chemical Safety and Pollution Prevention (OCSPP).

7. **Estimated Annual Operating Costs and Person Years:**

The estimated annual operating cost of FIFRA SAP is \$1,940,000 which includes 7.0 person-years of support.

8. **Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the DFO. The DFO or a designee will be present at all of the advisory committee's and subcommittee meetings. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

9. **Estimated Number and Frequency of Meetings:**

The FIFRA SAP expects to meet approximately eight (8) times a year. Meetings may occur approximately once every one and a half (1½) months or as needed and approved by the Designated Federal Officer (DFO). EPA may pay travel and per diem expenses when determined necessary and appropriate. A full-time or permanent part-time employee of EPA will be appointed as the (DFO).

As required by FACA, FIFRA SAP will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of Section 552(b) of Title 5, United States Code. Interested persons may attend meetings, appear before the committee as time permits, and file comments with the FIFRA SAP.

**10. Duration and Termination:**

This charter will be in effect for two years from the date it is filed with Congress. After this two-year period, the charter may be renewed as authorized in accordance with Section 14 of FACA.

**11. Member Composition:**

As required by FIFRA, the FIFRA SAP will be composed of seven members, including the Chairperson, and members will be selected from nominees provided by the National Institutes of Health (NIH) and the National Science Foundation (NSF). Members will serve as Special Government Employees (SGE) or Regular Government Employees (RGE). In selecting members, EPA will consider candidates on the basis of their professional qualifications to assess the effects of pesticides on health and the environment. To the extent feasible, the panel membership will include representation of the following disciplines: toxicology, pathology, environmental biology, and related sciences (e.g., pharmacology, biotechnology, bio-chemistry, bio-statistics).

**12. Subgroups:**

EPA, or FIFRA SAP with EPA's approval, may form FIFRA SAP subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the FIFRA SAP for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the Agency.

**13. Recordkeeping:**

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with NARA General Records Schedule 26, Section 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

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Agency Approval Date

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Date Filed with Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AL-11-001-8299

OCT 28 2011

THE ADMINISTRATOR

The Honorable Susan Collins  
Ranking Member  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

The enclosed charter is amended in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2. This amendment renames the committee, from the former Gulf of Mexico Executive Council, to the Gulf of Mexico Citizen Advisory Committee. The Gulf of Mexico Citizen Advisory Committee (GMCAC) is in the public interest and supports the Environmental Protection Agency in performing its duties and responsibilities under the Clean Water Act (CWA), as amended (33 U.S.C. 1251-1387).

I am filing the amended charter with the Library of Congress. The Committee will be in effect for two years from the date it is filed with Congress. After the two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App.2 § 14).

If you have any questions or comments, please contact me or your staff may contact Clara Jones in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3701.

Sincerely,

A handwritten signature in black ink, which appears to read "Lisa P. Jackson", is written over a large, stylized, circular flourish or "X" mark.

Lisa P. Jackson

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AL-11-001-1302

JUL 15 2011

The Honorable Susan Collins  
Ranking Member  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510

THE ADMINISTRATOR

Dear Senator Collins:

I am pleased to support the charter renewal of the Environmental Laboratory Advisory Board (ELAB) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The ELAB is in the public interest and supports the U.S. Environmental Protection Agency (EPA) in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The Board will be in effect for two years from the date it is filed with Congress. After the two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App.2 § 14).

If you have any questions or comments, please contact me or your staff may contact Clara Jones in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3701.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", is written over a horizontal line.

Lisa P. Jackson

Enclosure

# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

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## ENVIRONMENTAL LABORATORY ADVISORY BOARD

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1. **Committee's Official Designation (Title):**

Environmental Laboratory Advisory Board

2. **Authority:**

This charter renews the Environmental Laboratory Advisory Board (ELAB) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. ELAB is in the public interest and supports the Environmental Protection Agency (EPA) in performing its duties and responsibilities.

3. **Objectives and Scope of Activities:**

ELAB will provide advice, information, and recommendations to the Environmental Protection Agency (EPA) Administrator, the EPA Science Advisor, and/or Forum on Environmental Measurements (FEM) on issues related to:

- A. Enhancing EPA's measurement programs in areas such as:
  - a. Validating and disseminating methods for sample collection and for biological, chemical, radiological, and toxicological analysis;
  - b. Developing scientifically rigorous, statistically sound, and representative measurements;
  - c. Employing the performance paradigm in environmental monitoring and regulatory programs;
  - d. Improving communications and outreach between the EPA and its stakeholder communities; and
  - e. Employing a quality systems approach that ensures that the data gathered and used by the Agency are of known and documented quality.

B. Facilitating the operation and expansion of a national environmental accreditation program. In this regard, ELAB will provide advice and recommendations to EPA on issues that impact the non-governmental community that are related to:

- a. The operation and expansion of a national accreditation program characterized by an acceptance of the program by all states and suitable for accrediting environmental laboratories or entities of all sizes and types; and
- b. Steps that need to be taken in order to facilitate the further implementation of the performance paradigm in the nation's environmental monitoring and environmental accreditation programs.

4. **Description of Committee Duties:**

The duties of ELAB are solely advisory in nature.

5. **Official(s) to Whom the Committee Reports:**

ELAB will provide advice, information, and recommendations and report to the EPA Administrator, the EPA Science Advisor, and/or Forum on Environmental Measurements (FEM).

6. **Agency Responsible for Providing the Necessary Support:**

EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Office of the Science Advisor.

7. **Estimated Annual Operating Costs and Work Years:**

The estimated annual operating cost of ELAB is \$45,000 which includes 0.3 person-years of support.

**8. Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the DFO. The DFO or a designee will be present at all of the meetings of the advisory committee and subcommittees. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

**9. Estimated Number and Frequency of Meetings:**

ELAB expects to meet approximately ten (10) times a year, or approximately once a month by teleconference, in addition to two (2) times a year in a face-to-face setting, as needed and approved by the DFO. EPA may pay travel and per diem expenses, when determined necessary and appropriate.

As required by FACA, the ELAB will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of Section 552b of Title 5, United States Code. Interested persons may attend meetings, appear before the committee as time permits, and file comments with the ELAB.

**10. Duration and Termination:**

ELAB will be examined annually and will exist until the EPA determines the committee is no longer needed. This charter will be in effect for two years from the date it is filed with Congress. After this period, the charter may be renewed as authorized in accordance with Section 14 of FACA.

**11. Member Composition:**

ELAB will be composed of approximately 15 members who will serve as representative members. In selecting members, EPA will consider candidates from trade associations for the environmental laboratory industry, trade associations from EPA's regulated community, environmental public interest groups, academia, federal, local and tribal governments, and accreditation bodies.

**12. Subgroups:**

EPA, or the ELAB with EPA's approval, may form subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the ELAB for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the EPA.

**13. Recordkeeping:**

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with General Records Schedule 26, Item 2 or other approved agency records disposition schedule. These records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act and subject to the Freedom of Information Act, 5 U.S.C. 552.

June 22, 2011

Agency Approval Date

July 7, 2011

GSA Consultation Date

Date Filed with Congress





AL-11-001-8298  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 28 2011

THE ADMINISTRATOR

The Honorable Susan Collins  
Ranking Member  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

I am pleased to support the charter renewal of the Pesticide Program Dialogue Committee (PPDC) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The PPDC is in the public interest and supports the U.S. Environmental Protection Agency (EPA) in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The Committee will be in effect for two years from the date it is filed with Congress. After the two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App.2 § 14).

If you have any questions or comments, please contact me or your staff may contact Clara Jones in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3701.

Sincerely,

A handwritten signature in black ink, which appears to read "Lisa P. Jackson", is written over a horizontal line.

Lisa P. Jackson

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

AL-12-000-2894

FEB 17 2012

THE ADMINISTRATOR

The Honorable Susan Collins  
Ranking Member  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

I am pleased to renew the charter of the Farm, Ranch, and Rural Communities Advisory Committee in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The Farm, Ranch, and Rural Communities Advisory Committee is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The committee will be in effect for two years from the date the charter is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App.2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Clara Jones in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3701 or [jones.clara@epa.gov](mailto:jones.clara@epa.gov).

Sincerely,

A handwritten signature in black ink, which appears to read "Lisa P. Jackson", is written over a large, stylized, circular flourish.

Lisa P. Jackson

Enclosure

# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

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## Farm, Ranch, and Rural Communities Advisory Committee

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1. **Committee's Official Designation (Title):**

Farm, Ranch, and Rural Communities Advisory Committee

2. **Authority:**

This charter renews the Farm, Ranch, and Rural Communities Advisory Committee (FRRCC) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The FRRCC is in the public interest and supports EPA in performing its duties and responsibilities.

3. **Objectives and Scope of Activities:**

The FRRCC is a policy-oriented committee that will provide policy advice, information, and recommendations to the Administrator on a range of environmental issues and policies that are of importance to agriculture and rural communities.

It is intended that the members of the committee will address specific topics of unique relevance to agriculture as identified by the Agricultural Counselor to the Administrator, in such a way as to provide thoughtful advice and useful insights to the Agency as it crafts environmental policies and programs that affect and engage agriculture and rural communities.

4. **Description of Committee's Duties:**

The duties of the FRRCC are solely to provide advice to EPA.

5. **Official(s) to Whom the Committee Reports:**

The FRRCC will report its policy advice and recommendations to the EPA Administrator through the Agricultural Counselor.

6. **Agency Responsible for Providing the Necessary Support:**

EPA's Office of Federal Advisory Committee Management and Outreach, Office of the Administrator will be responsible for financial and administrative support.

**7. Estimated Annual Operating Costs and Person-Years:**

The estimated annual operating cost of the FRRCC is \$500,000 which includes 2.0 person-years of support.

**8. Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the DFO. The DFO or a designee will be present at all of the meetings of the advisory committee and subcommittees. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

**9. Estimated Number and Frequency of Meetings:**

FRRCC expects to meet approximately two (2) times a year. Meetings may occur approximately once every six (6) months or as needed and approved by the Designated Federal Officer (DFO). Meetings will generally be held in Washington, DC. EPA may pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, the FRRCC will hold open meetings unless the Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of section 552b of title 5, United States Code. Interested persons may attend meetings, appear before the committee as time permits, and file comments with the FRRCC.

**10. Duration and Termination:**

The FRRCC will be examined annually and will exist until the EPA determines that the Committee is no longer needed. This charter will be in effect for two years from the date it is filed with Congress. After this two year period, the charter may be renewed as authorized in accordance with Section 14 of FACA.

**11. Member Composition:**

The FRRCC will be composed of approximately twenty-five (25) members who will serve as Representative members of non-federal interests, Regular Government Employees (RGEs), or Special Government Employees (SGEs). Members are selected to represent the points of view held by specific organizations, associations, or classes of individuals. Individuals who are actively engaged in farming or ranching will be encouraged to apply. In selecting members, EPA will consider candidates from academia, industry (e.g., farm groups and allied industries), non-governmental organizations, and state, local, and tribal governments.

EPA, or the FRRCC with EPA's approval, may form subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered Committee and must report their recommendations and advice to the chartered Committee for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the EPA.

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with NARA General Records Schedule 26, Section 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

Agency Approval Date

GSA Consultation Date

Date Filed with Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AL-12-002-0369

DEC 14 2012

THE ADMINISTRATOR

The Honorable Susan Collins  
Ranking Member  
Committee on Homeland Security and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

I am pleased to support the charter renewal of the National Drinking Water Advisory Council in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The National Drinking Water Advisory Council is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The Committee will be in effect for two years from the date it is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App. 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Christina J. Moody in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over a horizontal line.

Lisa P. Jackson

Enclosure

# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

---

## NATIONAL DRINKING WATER ADVISORY COUNCIL

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**1. Committee's Official Designation (Title):**

National Drinking Water Advisory Council

**2. Authority:**

This charter renews the National Drinking Water Advisory Council (NDWAC or Council) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2. NDWAC is in the public interest and supports EPA in performing its duties and responsibilities. The Council was created by Congress on December 16, 1974, as part of the Safe Drinking Water Act of 1974, P.L. 93-523, 42 U.S.C. § 300j-5.

**3. Objectives and Scope of Activities:**

NDWAC will provide advice, information, and recommendations on matters related to activities, functions, policies, and regulations of the Environmental Protection Agency (EPA or Agency) under the Safe Drinking Water Act, including:

- a. Providing practical and independent advice on matters and policies related to drinking water quality and public health protection.
- b. Maintaining an awareness of developing issues and problems in the drinking water area and advising EPA on emerging issues.
- c. Advising on regulations and guidance as required by the Safe Drinking Water Act.
- d. Recommending policies with respect to the promulgation of drinking water standards.
- e. Recommending special studies and research.
- f. Assisting in identifying emerging environmental or health problems related to potentially hazardous constituents in drinking water.

- g. Proposing actions to encourage cooperation and communication between EPA and other governmental agencies, interest groups, the general public, and technical associations and organizations on drinking water quality.
- h. Analyzing sustainable infrastructure issues with special emphasis on the security of the nation's drinking water systems.

4. **Description of Committees Duties:**

The duties of NDWAC are to provide advice to EPA.

5. **Official(s) to Whom the Committee Reports:**

The NDWAC will report its advice and recommendations to the EPA Administrator.

6. **Agency Responsible for Providing the Necessary Support:**

EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Office of Water.

7. **Estimated Annual Operating Costs and Work Years:**

The estimated annual operating cost of NDWAC is \$252,000 which includes approximately 1.0 person-years of support.

8. **Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the DFO. The DFO or a designee will be present at all of the advisory committee's and subcommittee meetings. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so and will chair meetings when directed to do so by the official to whom the committee reports.

9. **Estimated Number and Frequency of Meetings:**

NDWAC expects to meet two (2) times a year. Meetings are expected to occur approximately once every six (6) months or as needed and approved by the Designated Federal Officer (DFO). As required by the Safe Drinking Water Act, EPA will pay members' travel and per diem expenses when members are "away from their homes or regular places of business in the performance of services for the Council." 42 U.S.C. § 300j-5(c).



As required by FACA, the Council will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of the Government in the Sunshine Act, 5 U.S.C. § 552b. Interested persons may attend meetings, appear before the committee as time permits, and file comments with the NDWAC.

**10. Duration and Termination:**

As provided in the Safe Drinking Water Act, "section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Council." 42 U.S.C. § 300j-5(d). However, the Charter is subject to the renewal process upon the expiration of each successive two-year period following the date of enactment of the Act establishing this Council.

**11. Member Composition:**

NDWAC will be composed of fifteen (15) members who will serve as Special Government Employees (SGE). Members will be appointed by EPA's Administrator after consultation with the Secretary of the Department of Health and Human Services. As required by the Safe Drinking Water Act, five (5) members will be appointed from appropriate State and local agencies concerned with public water supply and public health protection; five (5) members will be appointed from private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply, of which two (2) members will represent small, rural public water systems; and five (5) members will be appointed from the general public. 42 U.S.C. § 300j-5(a).

In addition, up to five (5) Federal employees will be appointed as technical advisors to the Council. The technical advisors may include individuals representing the EPA's Science Advisory Board (SAB), the Centers for Disease Control and Prevention's (CDC) National Center for Environmental Health and National Center for Infectious Diseases, and such additional Federal officials as the EPA deems necessary for the NDWAC to carry out its function. Technical advisors may participate in Council discussions, but not Council deliberations.

**12. Subgroups:**

EPA, or NDWAC with EPA's approval, may form NDWAC subcommittees or working groups for any purpose consistent with this charter. Such subcommittees or working groups may not work independently of the chartered committee and must report their recommendations and advice to the entire Council for full deliberation and discussion. Subcommittees or working groups have no authority to make decisions on behalf of the chartered Council and they cannot report directly to the Agency.

13. **Recordkeeping:**

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with NARA General Records Schedule 26, Section 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. § 552, these records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

DEC 11 2012

Agency Approval Date

DEC 14 2012

Date Filed with Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AL-10-002-1003

DEC 15 2010

THE ADMINISTRATOR

The Honorable Susan Collins  
Ranking Member  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

I am pleased to support the charter renewal of the National Drinking Water Advisory Council (NDWAC) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The NDWAC is in the public interest and supports the U.S. Environmental Protection Agency (EPA) in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The Council will be in effect for two years from the date it is filed with Congress. After the two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App.2 § 14).

If you have any questions or comments, please contact me or your staff may contact Lynda Beck in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3637.

Sincerely,

A handwritten signature in black ink, which appears to read "Lisa P. Jackson", is written over the word "Sincerely,".

Lisa P. Jackson

Enclosure

# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

---

## NATIONAL DRINKING WATER ADVISORY COUNCIL

---

**1. Committee's Official Designation (Title):**

National Drinking Water Advisory Council

**2. Authority:**

This charter renews the National Drinking Water Advisory Council (NDWAC or Council) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2. NDWAC is in the public interest and supports EPA in performing its duties and responsibilities. The Council was created by Congress on December 16, 1974, as part of the Safe Drinking Water Act of 1974, P.L. 93-523, 42 U.S.C. 300j-5.

**3. Objectives and Scope of Activities:**

NDWAC will provide advice, information, and recommendations on matters related to activities, functions, policies, and regulations of the Environmental Protection Agency (EPA) under the Safe Drinking Water Act.

The major objectives are to provide advice and recommendations on:

- a. Providing practical and independent advice on matters and policies related to drinking water quality and public health protection.
- b. Maintaining an awareness of developing issues and problems in the drinking water area and advising EPA on emerging issues.
- c. Advising on regulations and guidance as required by the Safe Drinking Water Act.
- d. Recommending policies with respect to the promulgation of drinking water standards.
- e. Recommending special studies and research.
- f. Assisting in identifying emerging environmental or health problems related to potentially hazardous constituents in drinking water.
- g. Proposing actions to encourage cooperation and communication between EPA and other governmental agencies, interest groups, the general public, and technical associations and organizations on drinking water quality.
- h. Analyzing sustainable infrastructure issues with special emphasis on the security of the nation's drinking water systems.

4. **Description of Committees Duties:**

The duties of NDWAC are to provide advice to EPA.

5. **Official(s) to Whom the Committee Reports:**

The NDWAC will report its advice and recommendations to the EPA Administrator.

6. **Agency Responsible for Providing the Necessary Support:**

EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Office of Water.

7. **Estimated Annual Operating Costs and Work Years:**

The estimated annual operating cost of NDWAC is \$252,000 which includes approximately 1.0 person-years of support.

8. **Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the DFO. The DFO or a designee will be present at all of the advisory committee's and subcommittee meetings. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so and will chair meetings when directed to do so by the official to whom the committee reports.

9. **Estimated Number and Frequency of Meetings:**

NDWAC expects to meet two (2) times a year. Meetings are expected to occur approximately once every six (6) months or as needed and approved by the Designated Federal Officer (DFO). As required by the Safe Drinking Water Act, EPA will pay members' travel and per diem expenses when members are "away from their homes or regular places of business in the performance of services for the Council." 42 U.S.C. § 300j-5(c).

As required by FACA, the Council will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of the Government in the Sunshine Act, 5 U.S.C. § 552b. Interested persons may attend meetings, appear before the committee as time permits, and file comments with the NDWAC.

10. **Duration and Termination:**

As provided in the Safe Drinking Water Act, "section 14(a) of the Federal Advisory Committee Act (relating to termination) shall not apply to the Council." 42 U.S.C. § 30j-5(d). However, the Charter is subject to the renewal process upon the expiration of each successive

two-year period following the date of enactment of the Act establishing this Council.

**11. Member Composition:**

NDWAC will be composed of fifteen (15) members who will serve as Special Government Employees (SGE). Members will be appointed by EPA's Deputy Administrator after consultation with the Secretary of the Department of Health and Human Services. As required by the Safe Drinking Water Act, five (5) members will be appointed from each of the following areas: 1) appropriate State and local agencies concerned with public water supply and public health protection; 2) private water-related or other organizations and groups having an active interest in public water supply/public health protection; and 3) the general public. 42 U.S.C. section 300j-5(a). Two (2) of the 15 members will represent small, rural public water systems.

In addition, up to five Federal employees will be appointed as technical advisors to the Council. The technical advisors may include individuals representing the EPA's Science Advisory Board (SAB), the Centers for Disease Control and Prevention's (CDC) National Center for Environmental Health and National Center for Infectious Diseases, and such additional Federal officials as the Deputy Administrator deems necessary for the NDWAC to carry out its function. Technical advisors may participate in Council discussions, but not Council deliberations.

**12. Subgroups:**

EPA, or NDWAC with EPA's approval, may form NDWAC subcommittees or working groups for any purpose consistent with this charter. Such subcommittees or working groups may not work independently of the chartered committee and must report their recommendations and advice to the entire Council for full deliberation and discussion. Subcommittees or working groups have no authority to make decisions on behalf of the chartered Council nor can they report directly to the Agency.

**13. Recordkeeping:**

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with NARA General Records Schedule 26, Section 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

November 19, 2010  
Agency Approval Date

DEC 15 2010  
Date Filed with Congress

AL-11-001-3184



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 29 2011

THE ADMINISTRATOR

The Honorable Susan Collins  
Ranking Member  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

I am pleased to support the charter renewal of the Clean Air Scientific Advisory Committee (CASAC) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The CASAC is in the public interest and supports the U.S. Environmental Protection Agency (EPA) in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The Committee will be in effect for two years from the date it is filed with Congress. After the two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App.2 § 14).

If you have any questions or comments, please contact me or your staff may contact Clara Jones in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3701.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over a horizontal line.

Lisa P. Jackson

Enclosure

# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

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## HUMAN STUDIES REVIEW BOARD

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1. **Committee's Official Designation (Title):**

Human Studies Review Board

2. **Authority:**

This charter renews the Human Studies Review Board (HSRB) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. HSRB is in the public interest and supports EPA in performing its duties and responsibilities.

3. **Objectives and Scope of Activities:**

The HSRB will provide advice, information, and recommendations on issues related to scientific and ethical aspects of human subjects research.

The major objectives are to provide advice and recommendations on:

- a. Research Proposals and Protocols;
- b. Reports of completed research with human subjects; and
- c. How to strengthen EPA's programs for protection of human subjects of research.

4. **Description of Committees Duties:**

The duties of the HSRB are solely to provide scientific or policy advice to EPA.

5. **Official(s) to Whom the Committee Reports:**

HSRB will report to the EPA Administrator through EPA's Science Advisor.

6. **Agency Responsible for Providing the Necessary Support:**

EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Office of the Science Advisor (OSA).



**7. Estimated Annual Operating Costs and Person Years:**

The estimated annual operating cost of HSRB is \$850,000 which includes 3.0 person-years of support.

**8. Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the DFO. The DFO or a designee will be present at all of the advisory committee's and subcommittee meetings. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

**9. Estimated Number and Frequency of Meetings:**

The Committee expects to meet approximately four (4) times a year. Meetings may occur approximately once every three (3) months or as needed and approved by the Designated Federal Officer (DFO). EPA may pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, HSRB will hold open meetings unless the EPA Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of section 552b of title 5, United States Code. Interested persons may attend meetings, appear before the Board as time permits, and file comments with the HSRB.

**10. Duration and Termination:**

This charter will be in effect for two years from the date it is filed with Congress. After this two-year period, the charter may be renewed as authorized in accordance with Section 14 of FACA.

**11. Member Composition:**

The HSRB will be composed of approximately thirteen (13) members who will serve as Special Government Employees (SGEs) or Regular Government Employees (RGEs). In selecting members, the EPA will consider candidates from the environmental scientific/technical fields, human health care professionals, academia, industry, public and private research institutes or organizations, other governmental agencies, and other relevant interest areas. The HSRB membership will include experts in relevant scientific or technical disciplines such as bioethics, biostatistics, human health risk assessment and human toxicology.

**12. Subgroups:**

EPA, or the HSRB with EPA's approval, may form HSRB subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the HSRB for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the Agency.

**13. Recordkeeping:**

The records of the Committee, formally and informally established subcommittees, or other subgroups of the Committee, shall be handled in accordance with NARA General Records Schedule 26, Section 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

March 28, 2012

Agency Approval Date

\_\_\_\_\_  
Date Filed with Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AL-12-000-5979

MAR 30 2012

THE ADMINISTRATOR

The Honorable Susan Collins  
Ranking Member  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

I am pleased to renew the charter of the Human Studies Review Board in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The Human Studies Review Board is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The board will be in effect for two years from the date the charter is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App. 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Clara Jones in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3701.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over a horizontal line.

Lisa P. Jackson

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AL-12-000-9853

JUN - 8 2012

THE ADMINISTRATOR

The Honorable Susan Collins  
Ranking Member  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Senator Collins:

I am pleased to renew the National Advisory Council for Environmental Policy and Technology in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2. The National Advisory Council for Environmental Policy and Technology is in the public interest and supports the U.S. Environmental Protection Agency in performing its duties and responsibilities.

I am filing the enclosed charter with the Library of Congress. The National Advisory Council for Environmental Policy and Technology will be in effect for two years from the date the charter is filed with Congress. After two years, the charter may be renewed as authorized in accordance with Section 14 of FACA (5 U.S.C. App. 2 § 14).

If you have any questions or require additional information, please contact me or your staff may contact Clara Jones in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3701.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa P. Jackson", written over a horizontal line.

Lisa P. Jackson

Enclosure

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## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CHARTER

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### NATIONAL ADVISORY COUNCIL FOR ENVIRONMENTAL POLICY AND TECHNOLOGY

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1. **Committee's Official Designation (Title):**

National Advisory Council for Environmental Policy and Technology

2. **Authority:**

This charter renews the National Advisory Council for Environmental Policy and Technology (NACEPT) in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The NACEPT is in the public interest and supports EPA in performing its duties and responsibilities.

3. **Objectives and Scope of Activities:**

NACEPT's scope involves advising the EPA Administrator on broad, crosscutting issues associated with EPA's environmental management on matters relating to activities and functions under federal environmental statutes, executive orders, regulations, and policies. NACEPT advises on ways to improve the development and implementation of domestic and international environmental management policies, programs, and technologies.

The major objectives are to provide advice and recommendations on:

- a. Identifying approaches to improve the development and implementation of domestic and international environmental management policies and programs;
- b. Providing guidance on how EPA can most efficiently and effectively implement innovative approaches throughout the Agency and its programs;
- c. Identifying approaches to enhance information and technology planning;
- d. Fostering improved approaches to environmental management in the fields of economics, finance, and technology;
- e. Increasing communication and understanding among all levels of government, business, non-governmental organizations, and academia, with the goal of increasing non-federal resources and improving the effectiveness of federal and non-federal resources directed at solving environmental problems;

- f. Implementing statutes, executive orders and regulations; and
- g. Reviewing progress in implementing statutes, executive orders and regulations.

**4. Description of Committee's Duties:**

The duties of the NACEPT are solely to provide advice to EPA.

**5. Official(s) to Whom the Committee Reports:**

NACEPT will submit advice and recommendations and report to the EPA Administrator through the Office of Federal Advisory Committee Management and Outreach.

**6. Agency Responsible for Providing the Necessary Support:**

EPA will be responsible for financial and administrative support. Within EPA, this support will be provided by the Office of Federal Advisory Committee Management and Outreach.

**7. Estimated Annual Operating Costs and Work Years:**

The estimated annual operating cost of the NACEPT Council and its subcommittees is \$600,000 which includes 2.5 person-years of support.

**8. Designated Federal Officer:**

A full-time or permanent part-time employee of EPA will be appointed as the DFO. The DFO or a designee will be present at all of the advisory committee's and subcommittee meetings. Each meeting will be conducted in accordance with an agenda approved in advance by the DFO. The DFO is authorized to adjourn any meeting when he or she determines it is in the public interest to do so, and will chair meetings when directed to do so by the official to whom the committee reports.

**9. Estimated Number and Frequency of Meetings:**

NACEPT generally meets three times a year. Meetings may occur approximately once every four months or as needed and approved by the DFO. EPA may pay travel and per diem expenses when determined necessary and appropriate.

As required by FACA, the NACEPT will hold open meetings unless the Administrator determines that a meeting or a portion of a meeting may be closed to the public in accordance with subsection c of section 552b of title 5, United States Code. Interested persons may attend meetings, appear before the committee as time permits, and file comments with the NACEPT.

**10. Duration and Termination:**

NACEPT will be examined annually and will exist until the EPA determines the committee is no longer needed. This charter will be in effect for two years from the date it is filed with Congress. After the initial two-year period, the charter may be renewed as authorized in accordance with Section 14 of FACA.

**11. Member Composition:**

The NACEPT Council will be composed of approximately twenty-five (25) members who will serve as Representative members of non-federal interests, Regular Government Employees (RGEs), or Special Government Employees (SGEs). Representative members are selected to represent the points of view held by organizations, associations, or classes of individuals. In selecting members, EPA will consider candidates from federal, state, local and tribal governments, the finance, banking, and legal communities, business and industry, professional and trade associations, environmental advocacy groups, national and local environmental non-profit groups, including public interest groups, and academic institutions.

**12. Subgroups:**

EPA, or NACEPT with EPA approval, may form NACEPT subcommittees or workgroups for any purpose consistent with this charter. Such subcommittees or workgroups may not work independently of the chartered committee and must report their recommendations and advice to the NACEPT for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered committee nor can they report directly to the Agency.

**13. Recordkeeping:**

The records of the committee, formally and informally established subcommittees, or other subgroups of the committee, shall be handled in accordance with NARA General Records Schedule 26, Item 2 and EPA Records Schedule 181 or other approved agency records disposition schedule. Subject to the Freedom of Information Act, 5 U.S.C. 552, these records shall be available for public inspection and copying, in accordance with the Federal Advisory Committee Act.

May 31, 2012

Agency Approval Date

June 1, 2012

GSA Consultation Date

**JUN - 8 2012**

Date Filed with Congress